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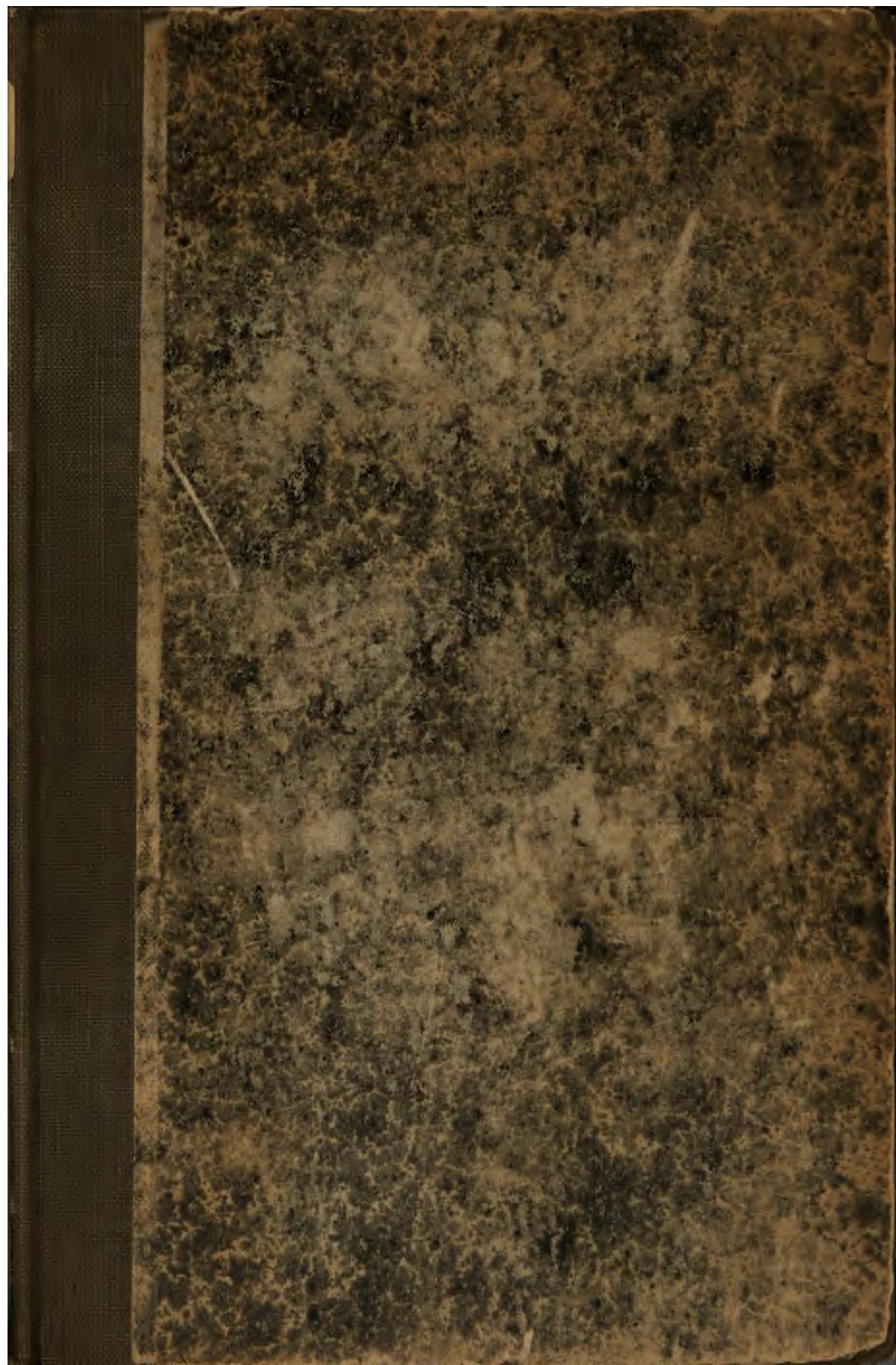
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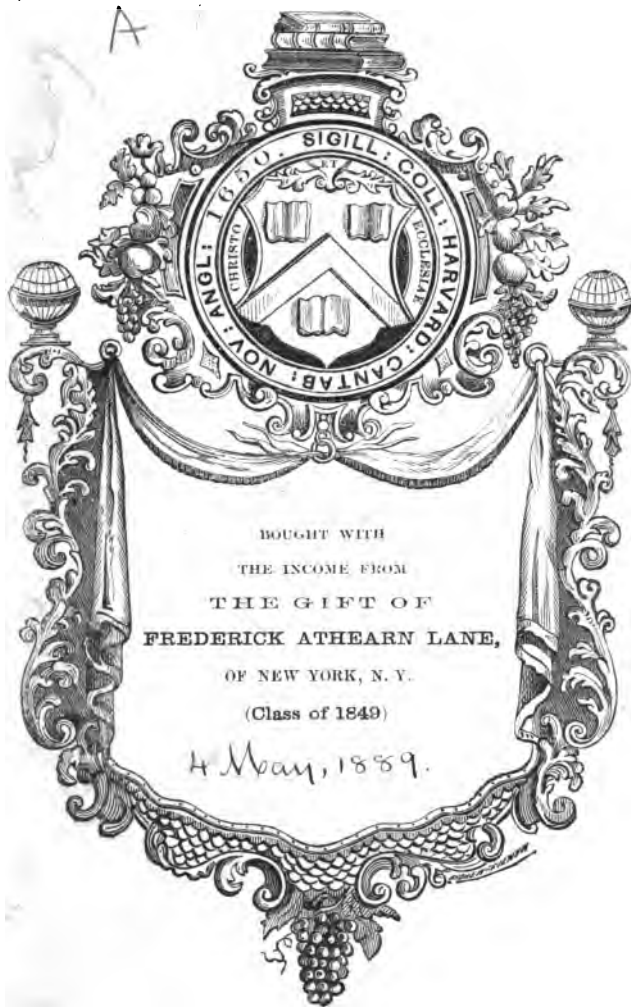
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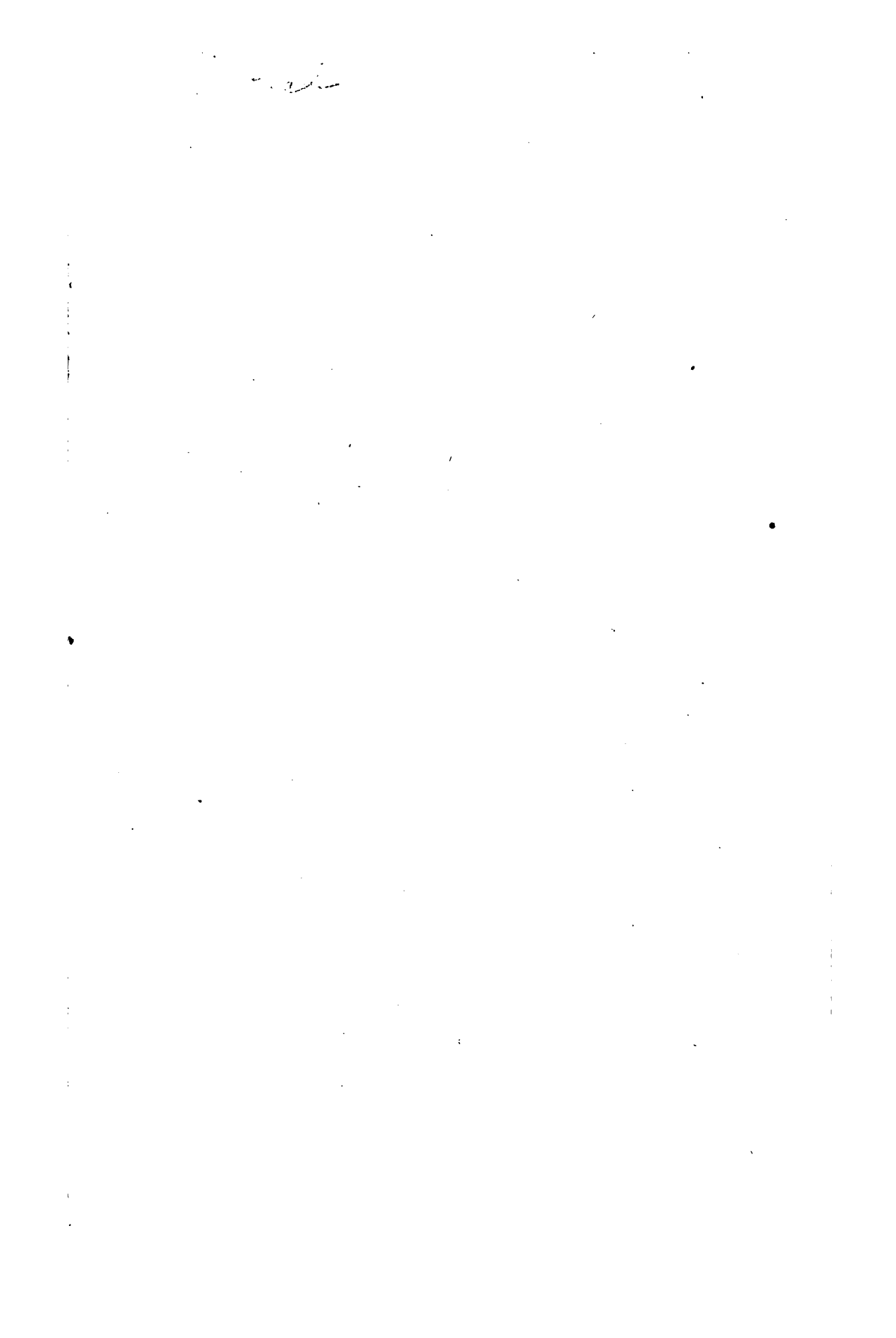
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THE
LAW OF ELECTION
IN THE
Ancient Cities and Towns
OF
IRELAND

TRACED FROM ORIGINAL RECORDS.

WITH FAC-SIMILE ENGRAVINGS AND AN APPENDIX OF DOCUMENTS.

BY WILLIAM LYNCH, ESQ. F.S.A.

AUTHOR OF

“A VIEW OF THE LEGAL INSTITUTIONS, HONORARY HEREDITARY OFFICES,
AND FEUDAL BARONIES,” &c.

LONDON:
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TO THE RIGHT HONOURABLE

HENRY
BARON BROUGHAM AND VAUX,
LORD HIGH CHANCELLOR OF GREAT BRITAIN,
&c. &c. &c.

MY LORD,

IN collecting materials from public records for that work on Legal Institutions, Honorary Hereditary Offices and Feudal Baronies, which I had the honour of laying before your Lordship, my enquiries were necessarily extended to the Origin and Rights of the Corporate Establishments formerly introduced into Ireland.

And having seen in this way satisfactory proofs that a measure of Reform, such as is intended for Ireland, must go far towards a revival of laws which, though latterly not enforced, are still unrepealed,—and of customs and usages which, though too long and too generally infringed on, have never been legally abrogated, I collected the written authorities that appear in the following pages, and now as an object of present interest most respectfully take leave to address them to your Lordship.

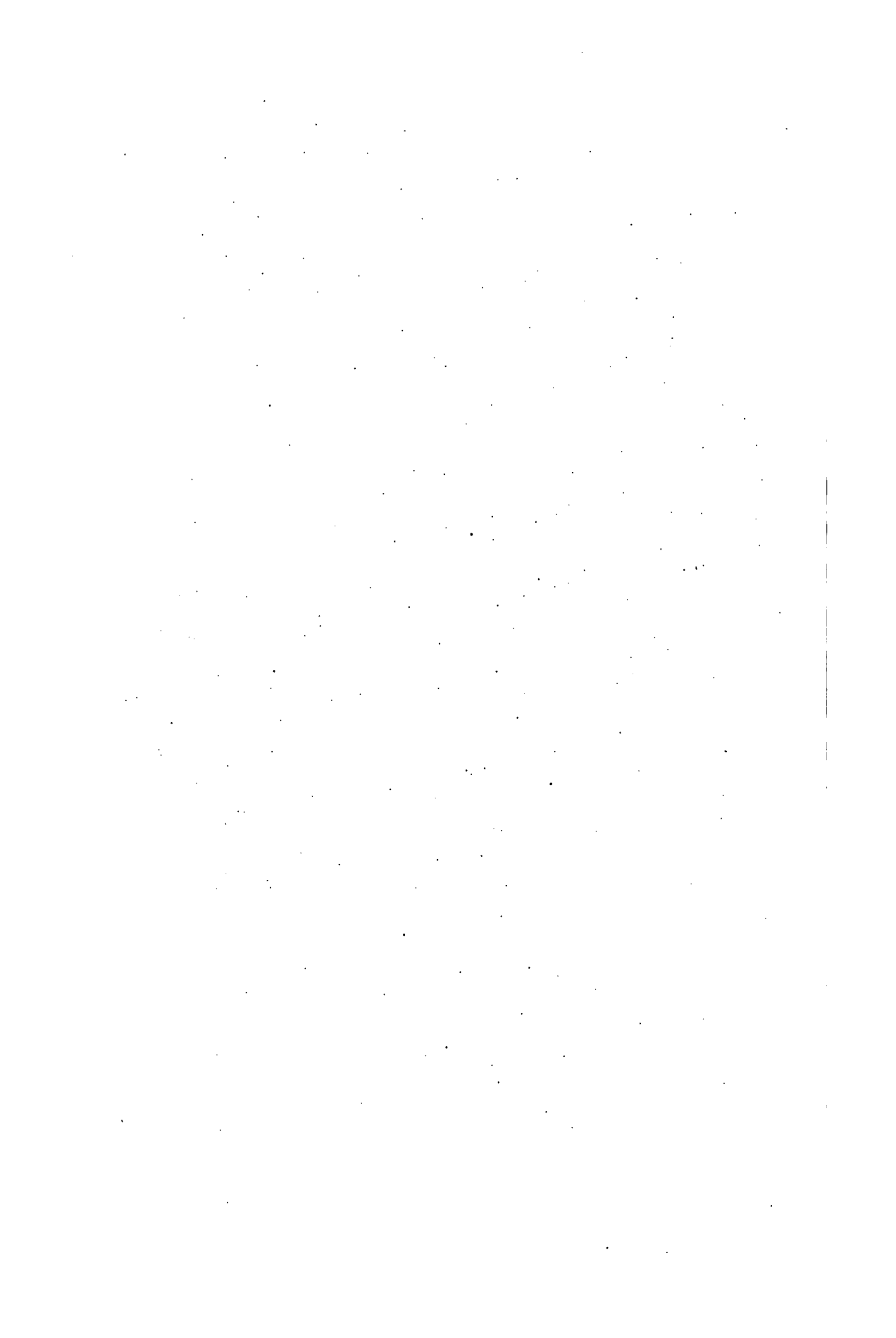
The difficulty of consulting original documents, the absence of preceding writers from whose labours aid might be obtained, and the pressure of other affairs, will, I hope, plead in extenuation with your Lordship for any imperfections to be found in these pages.

I have the honour to be,

My Lord, with every respect,
Your obedient and most humble Servant,

WILLIAM LYNCH.

50, *Henry Street, Dublin,*
27th June 1831.



THE
LAW OF ELECTION,
&c. &c.

CHAPTER I.

IN tracing the history of the British Legislature, few circumstances appear more remarkable than the numerous changes which that venerable institution has experienced, and her surprising aptitude for yielding to such modifications as time perpetually requires in all human establishments. To the same susceptibility of change we may be now indebted for the preservation and existence of this admirable system of civil government, which, with more fixity of ancient forms, and less power of adapting herself to the wants and wishes of the nation, might have long since been laid aside as antiquated and unserviceable, or perhaps have sunk amidst the revolutions of past centuries.

In the year 1216, when the people of England obtained a declaration or confirmation of their rights, it appears that the King guaranteed that Parliament, or the Commune Concilium, should be convoked for the assessing of Aids and Escuage, or, in other words, for voting public supplies. Even this limited concession, which bespeaks no power of general legislation in the Parliaments of that period, was omitted in all the subsequent confirmations of the great charter of liberties; and King Henry the Third, perhaps viewing it as an encroachment on the prerogative, and one with which his

“De auxiliis assidentis” et “de Scutagiis assidentis.”
Magna Charta.
Reliq. Spelman, p. 63.

Magna
Charta,
1 H. III.
Red Book
Excheq.
Dublin.

Stats. of
England,
4 Edw. III.
ch. 14.
36 Edw. III.
ch. 10.
5 Ric. II.
St. 2. ch. 24.

father's peculiar situation made it necessary to comply, expressly declares, that it was amongst the *quadam capitula gravia et dubitabilia* which he referred for further consideration. Notwithstanding this, however, so rapidly did the Constitution develop its powers—so early can changes in the forms and rights of the Legislature be traced—that in the following century we find it ordered by Statute Law, that Parliaments should be assembled yearly, and this not for the mere voting of supplies, but, as appears from the rolls of their proceedings, for all the purposes of general legislation.

In the early part of the fourteenth century, and certainly for a long time previously, the Crown had exercised the power of issuing ordinances for the regulation and control of affairs, which could now only be effected by regular Parliamentary enactment: whether these ordinances were issued by the King and his ordinary Council, or by the King and the Peers, or whether it was part of the original authority of the Crown, or an overstretch of the Royal prerogative, are here matters of little consequence; but that such was the practice for more than one hundred years will be seen by the numerous charters and ordinances now printed amongst the Statutes of England.*

Parliam.
Roll,
27 and 28
Edw. III.

In the year 1353, however, one of those ordinances had been prepared and promulgated by the King, in a great Council held at Westminster; and so materially altered had the jurisdiction and powers of the Legislature become, that the King, at the request of the Commons, was obliged to have the same ordinances recited by the Chief Justice in the next Parliament for its approval; and after directions were given that the Chancellor should furnish copies to the Commons for their additions and amendments, the ordinances were approved of and passed into a statute.

These great and beneficial changes in the authority of the legislature were followed by others in the constitution of the

* The practice is frequently adverted to in the Reports of the Lords Committees on the dignity of the Peerage; and much information relative to the ordinances so issued, and to Parliamentary history in general, will be found in those valuable Reports.

Houses of Parliament equally as important. In the thirteenth century, the dignity of a Peer of Parliament was derived from the possession of large seigniories; and certainly whatever may be thought of this qualification in the present age, it might perhaps then, from its nature, have set some bounds to the number of Peers, and prevented an undue influence of the Crown. But a practice commenced in the reign of Richard the Second, and came into general use under his successors, by which the King, through means of Letters Patent, created Peers of Parliament, and conferred hereditary Peerages on persons who had not the qualifications so long indispensable for Parliamentary Lords: this, in the course of time, caused such an increase in the number of Peers, that the ancient Baronage formed only a small minority in the Upper House of Parliament; and subsequently the principle of *tenure*, in which originated the *Peerage of England*, by those extraordinary revolutions which mark the history and condition of man, generally ceased as a right to nobility.

Lord Chancellor West's Inquiry into the manner of creating Peers, p. 53. 68. et seq.

On the 18th of April in the year 1322, King Edward the Second issued his writ to the Justiciary of Wales, and commanded him to cause forty-eight members to be elected in North and South Wales, and to be returned to sit, treat, and consult with the other members in his Parliament in England. This large number of representatives, summoned for the first time from a country so long and so lately at hostilities with the English nation, is perhaps one of the strongest proofs of the great power which the Legislature has always possessed of adapting its numbers and constituency to the rules of public policy.

Parliam. Roll, 15 Edw. II.

The Commons House of Parliament, however, underwent a still greater alteration in the next century. From the first time that Knights of Shires had been returned as members for counties, freeholders had voice in their election; but in the reign of Henry the Sixth two statutes were passed, by which the right of election was limited to such freeholders as were possessed of freeholds in lands, &c. to the yearly value of forty shillings. This alteration, made four hundred years since,

Stats. of England, 8 Hen. VI. ch. 7. 10 Hen. VI. ch. 2.

when money bore so high a value, must have decidedly changed the representation of counties, and deprived the great body of electors throughout the kingdom of the elective franchise.

Stats. of
England,
27 H. VIII.
ch. 7. and
ch. 26.
33 H. VIII.
ch. 13.
34 and 35
Hen. VIII.
ch. 26.

The succeeding century was still more remarkable for its alterations in the numbers and description of persons constituting both Houses of Parliament. It appears that no representation of the Welsh people in the English Legislature had continued after the reign of Edward the Second: and to remedy this, and with a view to a more complete incorporation of that country, several statutes were passed in the reign of Henry the Eighth, pursuant to which, Knights for all Welsh counties, and Citizens and Burgesses for the cities and boroughs there, were returned to the Parliament of England, and thus an addition of twenty-seven members was suddenly made to the Lower House of Legislature.

Writs of
Summons.
Appendix
to Lords
Committee,
Report on
Dignity of
the Peerage.

Statutes of
England 27
Hen. VIII.
ch. 28; 31
Hen. VIII.
ch. 13, &c.

In that reign also an alteration equally important was made in the Upper House. Amongst the most ancient and most influential class of Peers who are to be found in the writs of summons for nearly three hundred years, were the mitred Abbots and Priors: they, like the Archbishops and Bishops, were Lords of Parliament in right of the seigniories which they held; and although regularly summoned, and sitting as Lords of Parliament for so long a time, and although possessing great public weight from their extensive property and dignified character, yet by statutes passed in King Henry's reign all their estates were transferred to the King, and thus at once a body of the most ancient Peers, who frequently equalled and sometimes exceeded in number the temporal Lords of Parliament, were for ever divested of any future share in the Legislature.

Statutes of
England 5
Eliz. ch. 1.

These however were not the only changes which marked that century, and, extensive as they seem, there was another still of more general consequence. From the earliest period, every person duly elected and returned to that House, except minors, sheriffs, aliens born, &c. was eligible to take his place and sit in the Commons House, and such had been the right confirmed by an usage of some centuries; yet by an

Act passed in the year 1563 the Commons House became legally closed against all persons save those only who testified on oath their belief in the spiritual supremacy of Queen Elizabeth. Here the common law right and long continued usage were completely swept away; and making every allowance for the mutability of faith and pliancy of conscience which marked the Courts and Parliaments of Henry the Eighth, Edward the Sixth, Mary and Elizabeth, during the preceding thirty years, its operation even then and afterwards for so long a period must have been severely felt, not only by those in other respects eligible and likely to be elected, but also by the electors in general, whose choice thus was restricted, and whose interests are always involved in the limitation of their right of selection.

But each age in Parliamentary history has effected its change, and the seventeenth century offers more for our notice in that respect than those which preceded it. By a statute passed immediately after the restoration of Charles the Second, all the principal inhabitants of the Cities and Boroughs of England, Mayors, Aldermen, Common Council men, and those others who for so long a time had share in returning members to Parliament, were deprived of their offices unless they gave solemn tests of conformity to those particular tenets of religion which were then prescribed. Perhaps there never was a time when scruples of faith and peculiar religious opinions had so generally occupied men's minds in England as for some years before the passing of this Act; the Cromwellian and Commonwealth Governments, under which such extraordinary opinions were maintained, had but just ceased to exist; and there can be little doubt that as far as relates to cities and boroughs, the operation of this Act was then, as it continued to be, most extensively felt through the country.

The Act just referred to was followed by another, which excluded all Peers from sitting or voting in the Upper House of Parliament until they complied with those forms of religious belief which the framers of the Act required. In consequence, the King was deprived of the *consilium et auxilium* of several Peers, whose ancestors from time immemorial

Statutes of
England
13 Chas. II.
Stat. 2, ch. 1.

Statutes of
England 30
Chas. II.
Stat. 2.

had been members of the Legislature; but who now, as well as their descendants, were deprived of their birthright.

This leads us to the Revolution of 1688, a period at which some will have it the Constitution was so unalterably established and so firmly fixed, that all change, however indispensable, all innovations, however beneficial, completely ceased. But it were strange indeed if that Constitution, which amidst the violence and darkness of past ages had been so often labouring at its own amelioration, should after the year 1688, when it may be said the trade, the wealth, the arts, literature, in fact, the power of England grew up, suddenly cease its exertions, and stop short in that long continued race which she had kept with the improvements and general enlightenment of mankind.

This notion, however, proves wholly erroneous, and it will soon be seen that as the Revolution which placed the House of Tudor on the throne, did not prevent the innovations of Henry the Eighth, or of his successors; so, the Revolution which expelled the House of Stuart (in itself an extraordinary innovation) was but the precursor of many changes, some of which perhaps may be counted amongst the most important and wisest ever made in the legislative system of Britain.

It appears that although from the very commencement of Parliaments the King's officers, his constable, marshal, seneschal, and others equally connected with the Royal revenues of that period, had been members of the Legislature, and that with the exception of sheriffs and judges, no individuals holding employments under the Crown had been as such excluded, yet, after the Revolution, all persons managing the King's duties or taxes, Commissioners of the Navy, Governors of Plantations, officers of Excise and Customs, Secretaries of State, pensioners, and a most numerous body of others who from their rank and intelligence seemed likely to be well qualified for legislation, we find by special enactments then made were debarred from sitting in the Lower House of Parliament. Nay, such jealousy was shown of the Royal influence, that if a member already sitting in the House, and clothed with all the ancient and long established privileges of

Statutes of
England
5 & 6 W.
& M. c. 7.
11 and 12
W. III. cf.
2. 12, 13
W. III. ch.
10. 6 Ann.
ch. 7. 1
Geo. I. ch.
56. 15 Geo.
II. ch. 22.

Parliament, accepted office, it was enacted that his seat at once should become void. Here decidedly we have extraordinary, though it must be confessed beneficial alterations.

A curious circumstance occurred in the year 1694, as to the rights and number of the Parliamentary Peers: this was a claim made by Sir Richard Verney to a seat in the Upper House, as Lord Willoughby de Broke, in right of Writs of Summons issued between the years 1492 and 1515, to Sir Robert Willoughby and his son, from whom the claimant was lineally descended. Counsel for the Crown opposed this claim on the principle, first, that Writs of Summons * with subsequent sittings did not create an hereditary peerage, and

* Of this opinion were several eminent lawyers; and Lord Chancellor West, in his *INQUIRY INTO THE MANNER OF CREATING PEERS*, has collected many authorities to show that Writs of Summons and sittings could not create hereditary Peerages. The late Committees of the House of Lords, when reporting on the *DIGNITY OF A PEER OF THE REALM*, declare that it "seems to be only an *inference of Law derived from usage*, which has extended the operation of such a Writ beyond the person to whom it was directed;" and after recommending the subject to the House for its consideration, their Lordships further report that "the *first* decision on the subject seems to have been in 1673, on the claim of the dignity of Lord Clifton, and the House by referring the question to the consideration of the Judges may be considered as having had doubts what ought then to be deemed law on the subject, and as having treated the question as a question of difficulty. Before that decision, the law cannot be deemed to have been clearly settled; but on what ground the Judges gave their opinion that the honour descended from Jervis Clifton to his daughter and heir, does not clearly appear; and if they had before them *all the cases in which the heirs of a person summoned had not been afterwards summoned*, they must have conceived that those heirs *had been unjustly deprived of their right of inheritance*, unless they fixed on some point of time when they conceived usage had created a new law on the subject." But in the above case of Sir Richard Verney, the first law officer of the Crown insisted, and that in presence of the Peerage then assembled, that such Writs and sittings *did not create hereditary dignities*; and hence considering the grave character and high responsibility of that officer, we may conclude no usage was known to the law in this respect so late as the year 1694. But in the *SYNOPSIS OF THE PEERAGE OF ENGLAND*, compiled by Mr. Nicolas, it will be seen that during the three preceding centuries, daughters and coheirresses had occurred in almost every noble family in the kingdom; and is it reasonable to think if in the course of that long period females had any inheritable interest in those dignities generally called *Baronies by Writ*, that the rights of coheirresses would have remained unsettled and undecided, and have continued so until after the year 1694?

Cruise on
Dignities,
Chap. III.
Sec. 36, &c.

secondly, that even if an hereditary dignity had been so created, it became extinguished by occasion of coheirs. After the case had been fully heard, the House of Lords resolved that the claimant had no right to a summons to Parliament, and a Committee was appointed to draw up a report to the King to that effect, as the dignity claimed had been for some time "*lodged in coheirs, and that therefore it was in his Majesty's power to hold the same in suspense or abeyance, or to extinguish the same.*" Several members of the House, however, who had only female issue, feeling concerned in this decision, moved that a day be appointed to consider the

Decidedly we cannot even presume so, and all circumstances tend to establish the fact that the rights of coheiresses in such dignities had been but recently brought forward. In Ireland, however, where King Henry the Second established the Common Law, and introduced the Feudal Baronies of England, there is no trace of dignities being so created from the time of that Monarch to the reign of George the Third; on the contrary, it was decided there in the 51st of Edward III. when an Inquisition was held as to an amercement imposed for absence on a person summoned to Parliament, that *by the law and custom in that land thitherto used, no person unless holding by Barony ought to be summoned to Parliaments, or ought to be amerced by reason of absence from same.* This decision wholly negatives the idea of Baronies by Writ, and accounts for the numerous coheirs of the Barons de Burgo of Glenrickard, (now Clanrickard,) Butler of Dunboyne, Bermingham of Athenry, Le Fleming of Slane, and of the several other ancient Feudal Barons (continually summoned and sitting as Lords of Parliament,) who never derived dignities under the Writs of their ancestors, and who continue to be Commoners at the present day. *One instance,* it must be confessed, has occurred where, contrary to usage, and all precedent, a claim to a dignity by Writ was allowed; this was in the case of the Barony of LE POER, or CURRAGHMORE, which in 1767 was decided in favour of a daughter of the Lord last seised. But having thoroughly investigated that case and the extraordinary persecution of the heir male in 1717, which preceded it, the writer can now safely state from numerous documents in his possession, collected in the public offices, and in that part of the kingdom where the family lived, that the Barony of Le Poer, or Curraghmore, was *not a dignity by Writ*, but was created by Letters Patent to Richard Le Poer and the heirs male of his body, and that numerous male descendants of the Patentee still exist. This instance being therefore founded in error, cannot be cited; and should we judge from the usage of Ireland, Baronies by Writ were unknown to the ancient Law of England, and at whatever period they first came to be recognised in the latter country, which probably was in the seventeenth century, they certainly effected another change in the rights and numbers of Peers composing the Upper House of Parliament.

descent of Baronies by Writ ; and a day being named, "the Lords who interested themselves therein were heard by their counsel, Mr. Finch and Sir Thomas Powis ;" and after hearing the Attorney-General, the question was put and carried in the affirmative, that "If a person summoned to Parliament by Writ and sitting, die, leaving issue two or more daughters who all die, one of them only leaving issue, such issue has a right to demand a summons to Parliament." Here for the first time it was established that the Crown could not extinguish all dignities of this description which happened to fall among coheirs ; and considering the number of Peers then thought to be sitting under Writs, and the frequent occurrence of such heirs in families, it may be said that this decision had a most important effect in preserving the Legislative rights of a large portion of those who constituted the Upper House of Parliament.

But there was an Act passed some years after the Revolution which was calculated to work a general disfranchisement of the Electors throughout the kingdom. Subject to the changes effected by the Act of Henry the Sixth, as to forty-shilling Freeholders, and the Act of 13th Charles II. as to Members of Corporations, the Revolution of 1688 found the Elective Franchise in England almost in the same state in which it had been enjoyed for some centuries. By a statute, however, passed several years after the Revolution, it was ordained that no persons should vote for the election of Knights, Citizens, or Burgesses, to serve in Parliament, unless, when required, they by oath and otherwise proved their conformity to the religious tenets prescribed by the framers of that statute. This Act in some districts must have caused an extensive disfranchisement ; while generally throughout England it left the right of Election, however valuable and however long enjoyed, a mere conditional privilege.

Statutes of
England,
7 & 8 Wm.
III. c. 27.

The above alteration was not made until several years after that grand epoch, the Revolution of 1688 ; and we next come to another, presenting features of much deeper interest. In the reign of Queen Anne, pursuant to certain Statutes,

Stats. of
England,
5 Anne,
ch. 8 ;
6 Anne,
ch. 23.

sixteen Peers of the Parliament of Scotland were introduced into the Parliament of England, and at the same time forty-five Members chosen by the Commons of Scotland were added to the number of the Commons of England. Now, if we only consider the number of persons thus suddenly made part-takers of the right of Legislation, and the unprecedented description of Peerage then created, namely, Peers by election enjoying Parliamentary dignity during merely that particular Parliament for which they happened to be elected, this event seems one of exceeding magnitude ; but if we adopt that view which Mr. Prynne in the preceding century had taken of an amalgamation of the English, Scotch, and Irish Parliaments, we should also conclude that this was a most unconstitutional, destructive, and unprecedented innovation, which every good subject in his opinion was bound to resist.

Prynne's
Brief
Register,
p. 416.

Stats. of
England,
1 Hen. V.
ch. 1.

14 Geo. III.
ch. 58.

From the language of the earliest Writs of Summons it is clear that the representatives of Counties, Cities, and Boroughs, were Knights, Citizens, and Burgesses, residing within those places for which they were returned ; and this qualification as to residence was strictly enforced by the Act of Henry V., which remained the law of England for upwards of three hundred years. In the reign, however, of George III. a Parliamentary enactment was made, repealing all restrictions as to the residence of those chosen, and rendering completely unnecessary this salutary and long-established qualification.

In attentively reviewing the various modifications made in the Legislature for the five centuries immediately preceding the year 1800, it must be confessed that the largest and most extensive hitherto noticed yields in magnitude and interest to that effected on the passing of the Acts for the union of the two Kingdoms of Great Britain and Ireland. Pursuant to these statutes, so many as thirty-two Peers, spiritual and temporal, from the Parliament of Ireland, obtained voice and place in the Parliament of England ; furthermore, one hundred Members elected by the Commoners of Ireland were to be returned from that country to be added to the number of Members already sitting in the Commons House of Parlia-

ment in England. The great addition thus made to the number of persons previously constituting the two Houses of Parliament was not the most remarkable result of this great measure; as spiritual Peers of Parliament *only for one session*, and lay Lords of Parliament *only for life*, however previously unknown to the Laws and Constitution of England, were anomalies then introduced into the British Peerage.

Of the above hundred Commoners so to be returned from Ireland, sixty-four were to represent Counties, and in such counties the most numerous class of electors proved in time to be those persons who, according to statutory regulations made in the reign of Henry the Eighth in Ireland, had qualified themselves to vote as having lands and tenements in Freehold Estate to the yearly value of forty shillings. For two hundred and eighty-seven years had this statutory qualification been observed and used, for twenty-nine years had it been embodied amongst the Election laws of the United Kingdom, and in the year 1829 one-tenth part of all the Members sitting in the Imperial Parliament had been principally returned by Electors under this qualification; but in the year last mentioned an Act was passed by which such Electors were wholly disfranchised, and the qualification at once raised to five times the ancient amount. It must be confessed that the quantum of Freehold Estate required by this new Act is not extravagantly great, and that the former qualification of forty shillings was laid down two hundred and eighty-seven years before, when money was twenty-five times * more valuable than it was in 1829; still, however, this Act worked an extensive disfranchisement, and that in an age when the right of Election is so highly prized, and under all circumstances when it seems to be more constitutionally exercised than at any former period.

Statutes of
Ireland, 33
Hen. VIII.
Sess. 2,
ch. 1.

Stats. Un.
Kingdom,
10 Geo. IV.
ch. 8.

* In the reign of Henry the Eighth, the Church property of Ireland was valued by Commissioners and Juries: these valuations are in the Exchequer; and as a means of ascertaining the value of money, will be found on an average to support the above estimate. Dublin Archbishoprick was rated at 534*l.* 15*s.* 2½*d.* Meath at 373*l.* 12*s.* 0½*d.* Ferns at 108*l.* 13*s.* 4*d.* Ossory at 100 marks, &c. &c.

Statutes
Un. Kingd.
10 Geo. IV.
ch. 7.

The last and most general alteration made in the Constitution of the Houses of Parliament decidedly was that effected in the year 1829. It has been already shown, that in the reigns of Elizabeth, James the First, Charles the Second, and William the Third, various innovations had been made on the birthright of electors, as well as of those previously qualified for or entitled to seats and voice in Parliament; some of these had existed for more than two centuries, and in that way might lay claim to the sanction of time. But the Legislature, ever competent to provide remedies for existing wrongs, by a statute passed in the reign of his late Majesty, restored all to their privileges as British subjects by removing the restrictions so long imposed, not only on Electors, but also on those entitled to or eligible for seats in the Legislature.

A few words perhaps will now be permitted as to Boroughs. It appears that no class of ancient cities or towns was empowered by charter to send members to Parliament; on the contrary, writs were sent to the Sheriffs of counties, ordering them to summon all cities and towns within their jurisdiction; but as to the number or names of the places to be summoned, such writs were wholly silent. The Sheriffs however, in whose local knowledge, discretion, and fidelity the King necessarily confided, summoned all places, whether incorporated by charter or otherwise, of sufficient importance at the period; but when the same places afterwards declined in population and consequence, they were not summoned by the succeeding Sheriffs, in whose returns it will be frequently found stated that there were not within their jurisdiction any cities or boroughs which could send citizens or burgesses to Parliament, "*propter eorum paupertatem et debilitatem.*" Depending therefore so much on the fluctuations of trade and population, the power of returning members seems to have been but conditionally enjoyed in such places; and during a period of about three hundred and fifty years there appears no settled number of cities and towns in which it was considered the right of returning the citizens and burgesses of England was exclusively or permanently vested. These facts are sustained by the original returns still in the Tower; and

indeed how much more the ancient boroughs now sending members are indebted for that privilege to the diligence or discretion of the Sheriffs than to Royal charters, may be also collected in numerous instances from the same documents. As the old towns, however, formerly summoned, decreased in population and trade, new towns acquiring those necessary qualifications sprang up and enjoyed the right; hence almost in every reign during the period just mentioned there was a change in this part of the representation. In a late report of the Lords' Committee the subject has been noticed; and it appears that in the fourteenth century nineteen boroughs not summoned before were summoned and did return members, in the fifteenth century eight boroughs, in the sixteenth century no less than fifty-one, and in the beginning of the seventeenth century six boroughs were first summoned and sent members to the Legislature. Their Lordships further notice the other towns which afterwards in the reign of Charles the First and Charles the Second were summoned to send members, though some of them had not been summoned for more than three hundred years before. On the whole, therefore, it appears that the right of representation in boroughs was not a vested but a conditional or contingent right, qualified by or dependent on the trade and population of such places; and that from this circumstance, as also from the decisions continually making as to the rights of electors by Parliamentary Committees* in almost every Session since the reign of James the First, the representative system of boroughs in England, and the description of persons there electing, have undergone as many alterations as can be traced in any other branch of the Legislature.

Lords
Committee
Reports, p.
376.

Thus it will be seen that during the last six centuries the Parliament of England, in its forms, rights, and constituency,

* Between the reign of James the First and the year 1797, Mr. Oldfield has traced upwards of two hundred and seventy decisions made by Committees of the House of Commons on petitions from the several boroughs as to the description of persons who should have the right of Election in such places. Similar petitions and decisions continue still to be presented and made, and for so much the representative system remains subject to perpetual alterations.

presents to our view one continued series of changes and alterations; and whoever contemplates this system of Civil Government as it now exists in contrast with the Parliament used in England in the thirteenth century, and the state of the country at that period, must perceive the great increase of National Consequence and Political Power which has been ultimately derived from such numerous innovations.

CHAPTER II.

HAVING traced for a period of more than five centuries the continued workings of the Legislature towards its own amelioration, we shall now advert to circumstances connected with the representative system of an important part of the United Kingdom.

The circumstances alluded to are the qualifications and number of the persons at present enjoying the elective franchise in cities and towns in Ireland; and should it appear that the right of election as now exercised in those places is completely at variance with the laws and usages established for many centuries in that country, and that in most instances the franchise is confined to a few individuals, while the great body of the population, though legally entitled, are wholly excluded from enjoyment of this invaluable privilege, there are few who under such circumstances will not desire another of those regenerating exertions or ameliorating changes which well and seasonably made can best secure the permanency and vigour of the Legislature.

That this subject, however, may be the more clearly understood, it becomes necessary to say something of the period when first we find cities and towns recognised as having voice in the parliaments or public councils of Ireland.

In that country, as in England, before the commencement of parliamentary journals, the history of Parliaments is chiefly to be collected from writs issued by the Crown either for military assistance or for those extra-feudal aids and subsidies which could only be obtained by the vote of a general assembly.

presents to our view on alterations; and whoever Government as it now exists in England in the th the country at that period of National Consequence a ultimately derived from su

As a legal evidence that in or before the year 1180, as appears was known in Ireland, that a person among the legislative body cannot be now so easily elected, or shall proceed at once to the reign of King, as the third estate, or Commons, are specially notice. As writs (On the 10th of February in the year 1215, John issued his writs to the Archbishop, the Bishops, and Clergy, as also to the Earls, the Knights, Sheriffs, Knights, Citizens, Merchants, and to all other faithful subjects, and after notifying the conduct of the King, as at war with him, and sought to disinherit him, he recites that the people of England, as "efficax auxilium," as well as going persons into Normandy, as also in men and his Majesty seeks, "non commutandam," that his subjects in Ireland would in this moment of his necessity, as his justiciary and others whom he sends on his behalf. This recognition, knights, burgesses, and freeholders, applies to the Crown at a period important, and on that account found printed at full in

the King's request
day of September
Ireland expressing
faithful subjects
ed him, and
nd of the

John
he

runneth, viz. when the Royal service was proclaimed; at service was "when *the King by common council of his* send in certen day and place by *warning of forty days* to do batayle or to ride an hosting for forty days or less to warr upon his enemies for the time being." diately after John's death, his son King Henry the forwarded to Ireland a Charter of Liberties for that with this charter (which is entered in the Red the Exchequer) letters were sent over announcing hus made, and these letters are addressed not only chbishops, Bishops, Abbots, Earls and Barons, but : *Knights, Freeholders, and all others his faithful*

Black Book,
Archdio.
Dublin.

Pat. Roll,
Tower,
1 Hen. III.

ear 1218 King Henry ordered the Justiciary to id and *talliage* from the Cities, Boroughs, and f the Crown in Ireland; and similar directions ven as to the Barons and Knights holding there in capite.

Close Roll,
Tower,
2 Hen. III.

ad the voting of Parliamentary subsidies and ut this period, that we find, when the Arch- in entered into an agreement with the citizens his tenants should have the freedom and pri- ity, it was expressly covenanted that such besides the ordinary local charges, should heir share with the citizens when any talliage ed at the special mandate of the Lord the atur cum ipsis civibus CUM DE MANDATO PECIALI aliquod fit tallagium vel auxi- eement was publicly executed in writing by the year 1225, and it evidences that the ting aids de mandato Domini Regis speciali and that the towns had share in voting

Black Book,
Archdio.
Dublin.

rit tested at Westminster the Justiciary to convoke place, the Archbishops, Barons, the *Knights* and n Ireland, and to cause

Close Roll,
Tower,
12 Hen. III.

Charter
Roll,
Tower,
5 John.

There is legal evidence that in or before the year 1189 public legislation was known in Ireland; but as the persons then composing the legislative body cannot be now so easily ascertained, we shall proceed at once to the reign of King John, when the third estate, or Commons, are specially noticed in the royal writs. On the 10th of February in the year 1204, King John issued his writs to the Archbishops, the Bishops, Archdeacons, and Clergy, as also to the Earls, the Barons, the Justices, Sheriffs, *Knights, Citizens, Merchants, Burgesses, and Freeholders*, and to all other his faithful subjects in Ireland; and after notifying the conduct of the King of France, who was at war with him, and sought to disinherit him of his dominions, he recites that the people of England had granted him an “*efficax auxilium*,” as well in going personally in his service into Normandy, as also in men and money: wherefore his Majesty seeks, “*non consuetudinarie set amabiliter rogamus*,” that his subjects in Ireland would grant him a similar aid in this moment of his necessity, as his faithful and beloved the Justiciary and others whom he sends over will explain to them on his behalf. This recognition, that knights, citizens, merchants, burgesses, and freeholders were summoned for voting supplies to the Crown at a period so early, is both curious and important, and on that account a copy of the original record will be found printed at full in the Appendix to these sheets.

See Appen-
dix, No. I.

Patent
Roll,
Tower,
6 John.

That the Parliament complied with the King's request there is reason to believe; as on the first day of September following, King John sent other writs into Ireland expressing his thanks to the “*Barons*” and to “*all the faithful subjects of Ireland*” for the aid which had been granted him, and also for the good service which under the command of the Justiciary they performed for his Majesty.

In the year 1210 the landholders of Ireland, when John visited that country, petitioned the King to make known the time and manner in which they were bound to render those payments of service and money which had been reserved to the Crown out of their estates; and his Majesty prescribed and ordered that those services should be rendered when

Escuage runneth, viz. when the Royal service was proclaimed; and that service was "when *the King by common council of his tenants* send in certen day and place by *warning of forty days* at least to do batayle or to ride an hosting for forty days or more or less to warr upon his enemies for the time being."

Black Book,
Archdio.
Dublin.

Immediately after John's death, his son King Henry the Third forwarded to Ireland a Charter of Liberties for that country: with this charter (which is entered in the Red Book of the Exchequer) letters were sent over announcing the gift thus made, and these letters are addressed not only to the Archbishops, Bishops, Abbots, Earls and Barons, but also to the *Knights, Freeholders, and all others his faithful* in Ireland.

Pat. Roll,
Tower,
1 Hen. III.

In the year 1218 King Henry ordered the Justiciary to obtain an *aid* and *talliage* from the Cities, Boroughs, and Demesnes of the Crown in Ireland; and similar directions were also given as to the Barons and Knights holding there of the Crown in capite.

Close Roll,
Tower,
2 Hen. III.

So usual had the voting of Parliamentary subsidies and aids become at this period, that we find, when the Archbishop of Dublin entered into an agreement with the citizens of Dublin that his tenants should have the freedom and privileges of the city, it was expressly covenanted that such men or tenants, besides the ordinary local charges, should also contribute their share with the citizens when any talliage or aid was granted at the special mandate of the Lord the King: "*Auxilientur cum ipsis civibus CUM DE MANDATO Domini Regis SPECIALI aliquod fit tallagium vel auxilium.*" This agreement was publicly executed in writing by both parties in the year 1225, and it evidences that the practice of granting aids *de mandato Domini Regis speciali* existed at that period, and that the towns had share in voting those public supplies.

Black Book,
Archdio.
Dublin.

In the year 1228, the King by writ tested at Westminster on the 8th day of May, commanded the Justiciary to convoke before him, at a certain day and place, the Archbishops, Bishops, Abbots, Priors, Earls and Barons, the *Knights and Freeholders, &c.* of all the counties in Ireland, and to cause

Close Roll,
Tower,
12 Hen. III.

to be publicly read the Charter of King John for the better observance of the laws, &c.

Close Roll,
Tower,
28 Hen.III.

In the 28th year of his reign, the King specially recognised the legislative authority of the representatives of Cities and Towns in Ireland. This appears by a writ to the Justiciary, wherein he directs him to cause equal weights and measures to be used throughout Ireland; he the Justiciary, however, first having convoked a *Council of all the discreet Burgesses* of that land: "*Convocato prius Concilio discretorum omnium Burgensium de terrâ nostrâ Hiberniæ.*"

Pat. Roll,
Tower,
28 Hen.III.

In the same year he addressed his letters to the Earls, Barons, and other the "*probis Hominibus*" and Community of Ireland, and therein declared that the service which he sought of them to join his army out of Ireland should not be afterwards turned to their prejudice as a precedent, or against the liberties formerly enjoyed by them. On that occasion also the King ordered his Treasurer and Barons of the Exchequer to make certain allowances to his "*probis hominibus*" of Dublin, Drogheda, Waterford, and Cork.

Close Roll,
Tower,
29 Hen.III.

On the 10th of January in the year 1245, the King, after reciting the revolt of the Welsh and their invasion of his territories, orders the Justiciary to make known the circumstances to the Magnates and others his faithful in Ireland, to provide wines, corn, and bacon for the army, to let him know the number of men which the Justiciary will be able to bring out of Ireland to his assistance, and with the Magnates singly and together to hold a conference in order to obtain a subsidy for the war.

Chart. Roll,
Tower,
37, 38 Hen.
III. p. 2.

On the 20th of August, writs were issued to the Archbishops, Bishops, Abbots, Priors, Earls, Barons, *Knights*, and *all other the Free Men* of Ireland, wherein the King earnestly requests them to grant him an aid towards knight-
ing his eldest son, and for the marriage of his eldest daughter.

Pat. Roll,
Tower,
37 Hen.III.

In that year also writs were addressed to the Archbishops, Bishops, Earls, Barons, *Knights*, and all others "*Cruce signatis*," in Ireland, declaring that he the King had sworn to his voyage to the Holy Land, and therefore requiring them to *assemble themselves at a certain day and place*, there

to ascertain and certify to him the numbers and names of those willing to accompany him in this expedition, that so his Majesty might have sufficient shipping in readiness for them.

In the year 1264, letters were sent to M. fit Gerald respecting the army of Christians and Saracens then hastening to invade the King's dominions in Gascony, and to obtain thereby an entry into England and Ireland. On this account his Majesty enjoins him as he loves the King's honour and "*indempnitatem corporis nostri*," that he will bring with him all his friends to him the King in Gascony, so that they be ready to embark at Waterford, with horses and arms and men prepared, in the octaves of Easter; for never in future times could there arise so great a necessity to the Crown for their council and aid as then existed; and to relate more fully those dangers, the King sends over John Fitz Geoffrey his Justiciary, who at Dublin at the time therein mentioned, together with the Magnates to whom the King has written, will declare the King's wish, and treat more fully on the subject.

Close Roll,
Tower,
38 Hen.III.

In two months after, letters tested by Queen Alianore and Richard Earl of Cornwall, at Westminster, on the 2nd of February, were addressed to the Archbishops, Bishops, Abbots, Priors, the Earls, Barons, *Knights, and other the Faithful Subjects* of Ireland, apprising them that John Fitz Geoffrey the Justiciary was sent over to explain to them the state of the King's affairs, and the imminent dangers then existing, and also to treat with them as to an aid to be granted against the King of Castile, who was about seizing on the land of Gascony: wherefore they are requested to give credence to what the Justiciary should relate to them on the King's part, towards obtaining this aid.

Pat. Roll,
Tower,
38 Hen.III.

Within a few days, other letters still more urgent were issued to the Archbishops, Bishops, Abbots, Priors, Earls, Barons, *Knights, Free Men, Citizens, Burgesses*, and other faithful subjects in Ireland: entreating of them not to desert the Crown and its rights in a moment of such peril, but to send over all possible assistance to the King in men and

Pat. Roll,
Tower,
38 Hen.III.

money; and that to explain to them the situation of the King's affairs, &c. the Justiciary above-mentioned and the Prior of St. John's of Jerusalem are sent over.

The antient
right of the
Commons
of England
asserted,
Lond. 1680.

No Parliamentary Rolls of Henry's reign now exist in Ireland; but the frequency of those writs, and several entries of supplies in men and money voted to the King on different occasions, leave little doubt that Parliaments were accordingly convened, and that the third estate, including Citizens and Burgesses, then had summons to and voices in the Parliament of Ireland. This conclusion is supported by the opinion of Mr. Pettyt, who in his "*Antient Right of the Commons of England*," cites the above writs for aids against the King of Castile, and says they *clearly evince that the Citizens and Burgesses were then part of the Great Council or Parliament in Ireland.*

Close Roll,
Tower,
39 Hen. III.

On the 30th of July in the next year the King directed his son Prince Edward, on whom he had conferred the dominion of Ireland, to convoke before him the Archbishops, Bishops, Abbots, Barons, &c. and there with the advice of the Justiciary and others of his Council, to apply a remedy fitting for certain abuses complained of, and such as they may see calculated for the safety of the Church, and for the benefit and tranquillity of the land.

Coram Rege
Roll,
4 Edw. I.
Chapt. Ho.
Westminst.

In the year 1264, while Prince Edward had the Government of Ireland, a Parliament was called, and one of the statutes then passed is still partly preserved by recital. This statute was pleaded before Edward after he had ascended the throne of England, in the following words, by Galfridus de Prendergast, who obtained judgment thereupon. "And the said Galfridus says, that he did not disseize him, and that the assize ought to proceed, because he says that in the 48th year of the reign of the late King, (Henry the Third,) after the disturbance of the land of Ireland, *it was provided by the Council of the Lord Edward and the Community of the whole land*, that each person should recover his estate in lands, tenements, castles, wardships, goods and chattels, as the same were on the day of Saint Nicholas in that year," &c.

Another statute was passed in the year 1269, and its language shows that the *Communitas*, or third estate, had share in the framing of laws, as well as the *Magnates*: it commences thus:—"Provisum et statutum est de consilio Domini R. de Ufford, Capitalis Justiciarii Hiberniæ, et aliorum fidelium Domini Edwardi, qui sunt periti de ejus Concilio, et de consensu omnium Magnatum et totius Communitatis Hiberniæ." This Act directs that a similarity of weights and measures should be observed throughout the kingdom, regulates the sale of wines, and makes other provisions of a public general nature: a fac-simile of it was made some few years since from the original roll, and published by order of the House of Commons.

As soon as the first perpetual grant of customs on wool, &c. had been made to the Crown in the Parliament of England, King Edward transmitted a certificate thereof to his Justiciary in Ireland, enjoining him, "as we wish that the same customs to us in our land of Ireland may be granted," to exercise diligence and circumspection in inducing the Archbishops, Bishops, Abbots, Earls, Barons, "*Communitas*," and *Merchants* of Ireland to make a similar grant. The customs were accordingly granted, as appears by numerous entries on the Rolls respecting their collection in the different ports, and particularly when King Edward mortgaged them to the company of foreign merchants.

Fine Roll,
Tower,
3 Edw. I.

Chief Re-
membr's
Rolls, Dub.
31 to 35
Edw. I. and
4 & 5
Edw. II.
&c.

In the year 1280, the Crown distinctly recognised a legislative authority in the Prelates, Peers, and Commons of Ireland: this appears by letters tested at Westminster on the 10th of June, and directed to the Archbishops, Bishops, Abbots, Priors, Earls, Barons, Knights, *and to all others, &c. of Ireland*, wherein the King acquaints them that he was petitioned for a general extension of the laws to all classes in that country, but that this he had not directed to be done "*absque conscienciâ vestrâ*," and therefore he orders that at a certain time they should assemble themselves in any convenient places, and hold diligent treaty whether this measure would be prejudicial to them, or their liberties and customs, or not,

Patent Roll
Tower, 8
Edw. I.

&c. and to certify to the King the result under the seals of the Justiciary, &c. together with their advice.

About this period, Parliaments were so regularly convened in Ireland, that we find the commencement of a series of rolls in the Exchequer with the official heading "*Pleas of Parliament*:" the entries on such rolls, however, do not disclose the names of the persons so assembled, and chiefly relate to matters of an high and arduous nature, cognizable by the Justiciary and Privy Council in Parliament.

Roll of
Wales,
Tower,
10 Edw. I.

In the year 1282, on the occasion of an insurrection of the Welsh, King Edward sent letters to Thomas de Clare, and directed him to hold a conference and treaty in his name with the Abbots, Priors, &c. the *Citizens, Burgesses, Merchants, and "Communitas" of cities, boroughs, and mercantile towns* of Ireland, as also with the other persons (the Prelates and Peers) whose names he encloses, and to induce them jointly or severally, according to their means, to advance him a loan of money.

The King, on this occasion, sent other letters to the Abbots, Priors, and Religious, the *Sheriffs, Citizens, Burgesses, Merchants, Mayors, Bailiffs, and Communitas* of cities, boroughs, and mercantile towns, and to all other his faithful in Ireland, notifying that he had ordered Thomas de Clare &c. to expound to them "*ore tenus*" certain arduous and special affairs, and requiring them to confide in what said Thomas shall say to them on the King's behalf.

Miscellan.
Parchments
time of Ed.
I. Tower.

There is an original certificate sent by one of the King's officers about the year 1290 into England, which gives some details of a fifteenth granted by a Parliament in Ireland. It seems the assembly was convened on Monday in the quindene of St. Hilary, and that the Magnates, Barons, and *faithful Commons* being present, the King's application for a grant of an aid was made known; whereupon they unanimously voted the fifteenth; but with the reservation, that from payment or assessment for same, their armour, treasure, wardrobe, &c. were to be exempted: some persons, however, "*de vulgo*," and many Magnates, after much altercation, complained of being grieved by the daily Wars, and

sought that this aid should be paid out of the debts which were due to them.

2 About the year 1295 there was a "generale Parliamentum" held at Dublin, and the statutes passed still exist: by these the extent of some counties, and jurisdiction of county courts were regulated; the tenants of twenty librates of land were bound to have a competent house, with the necessary arms continually ready at their mansion for service; and the smaller tenants, it was enacted, should have hobbies; the absentee nobles,* who caused their rents to be transmitted to them, but who sent nothing back for the benefit of their estates and tenants, it was ordained should leave a fit portion of the profits in the hands of their agents for those purposes; and to effect this, the Sheriffs &c. were empowered to distrain. Many of the other provisions were equally wise and salutary; and on the whole, the Acts of this Parliament throw great light on the situation of the country, and the state of society existing at that time.

Black Book,
Christ
Church Ca-
thed. Dub.

-1297?

In the year 1300, the King issued his writs in the usual manner to the Prelates, Peers, &c. notifying that he required a subsidy to enable him to suppress the rebellion of the Scotch, and requesting them to confide in what his Justiciary should explain to them on the subject. The Justiciary then summoned a general Parliament at Dublin on the quindene of Easter, and required the Prelates and Peers to be there

* *Magnates etiam et alii qui morantur in Angliâ vel alibi extra terram istam, qui proficua terræ suæ transferri fecerint ad eos ab hâc terrâ, et nihil hic dimittentes ad salvanda tenementa sua, seu tenentes eorundem, de cetero permittent portionem competentem remanere saltem in manibus Ballivorum suorum, per quas terræ suæ propriæ competenter salvari poterint et defendi si guerram seu pacis perturbationem per aliquos contigerit ibi suscitari: Et ad hoc faciendum cum opus fuerit per Vicecomitem sive Seneschallum efficaciter distringantur.*" The absentees of the present day seem not aware that a large body of statute law, by which absenteeism was formerly prohibited, still remains unrepealed; and that under those laws some of the most deserving and popular families were deprived of their estates, even so late as the 17th century. Edward the Second, and his successor Edward the Third, on several occasions maintained that such estates were held subject to certain trusts to be fulfilled towards the King and his people; and they, and afterwards their successors, aided by Parliament, under the severest penalties enforced that principle.

in their proper persons, "and the *Communities of Counties by two, three, or four*, for this purpose by them elected, and having special power as if all were present, and likewise *the Communities of Cities and Boroughs by two or three*," &c. But the Justiciary, as the record states, determined first to address the several cities and boroughs on the business of the subsidy, and for this purpose went to Drogheda, Ross, Waterford, and the different other cities and towns of the kingdom, the names of all which are entered on the roll, with the different sums granted as subsidy. On the opening of the Parliament, the Magnates and Communities appeared in the form demanded; but several of them, excusing themselves from voting, requested the Justiciary would go through the country, and whatever the Communities in their proper persons might grant, they, the Magnates, Proceres, Prelates, would contribute to. The Justiciary accordingly proceeded through the counties, and the sums of money and supplies of provisions voted him in his journey are set forth on the record. As this document furnishes a minute and curious detail of the mode of obtaining a Parliamentary supply at a time when Edward's frequent demands had nearly exhausted the "benevolentiam" of his Irish subjects, a copy of the proceedings will be found in the Appendix.

See Appen-
dix, No. 1V.

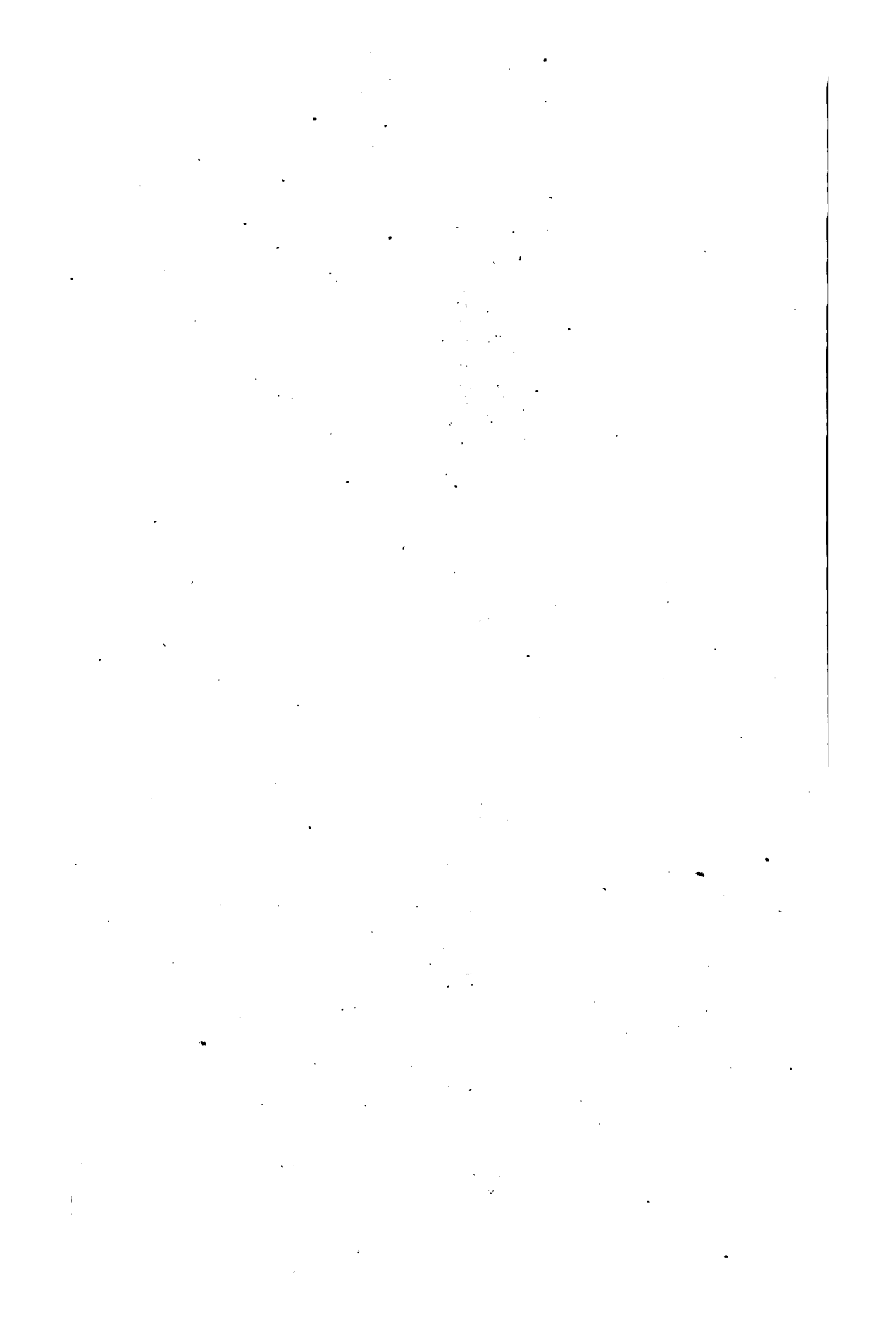
A Parliament assembled in the second year of Edward the Second, and the laws then enacted are still preserved; in an original petition in the Tower, the date of their enactment is fixed, and one of the Acts is made a subject of complaint.

Statutes, 2d
Edw. II.
Red Book,
Excheq.
Dublin.
Original
Letters,
time of Ed.
III. Tower.

In the third of Edward the Second, the King sent his writ to the Justiciary of Ireland to convene a Parliament for obtaining assistance against Robert Bruce; accordingly the Justiciary issued his writs of summons for a Parliament at Kilkenny to the Prelates, the Peers, and to the Sheriffs, to summon two knights out of every county, and TWO CITIZENS OR BURGESSES OUT OF EVERY CITY OR BOROUGH, having full power, &c.; all there summoned being assembled, as the record states, before the Justiciary and Council, a committee was chosen from the Lords and Commons, several

Chief Re-
mem. Roll,
Dub. 3, 4
Edw. III.

videndum et consimilia quid omnibus amictibus et sursis per totam hanc
pro qua supra sum fecit ecclesie parliamentum apud Dublin in quondam pasche videlicet quod prelati et magni
omnes veniant ibi in propriis personis et et quod iudices comitem per tres vel quatuor ab hoc per ipsos decem et per
ad eam potestatem fentes ac et omnes fuisse presentes et sunt iudices comitem Emery per duos vel tres et



acts were passed, and particularly one as to the conduct of the Magnates, which seems to show that the Commons had already acquired considerable influence in the Legislature. The number of citizens and burgesses ordered to be retained on this occasion was two for each place, as appears by the roll, and this was the number uniformly returned for each city and borough after that period.

Writs for a similar aid were sent by the King into Ireland in the year 1313, to the Prelates, Peers, and to the Mayor, Bailiffs, and "probis hominibus" of Dublin, Ross, Waterford, Cork, and Limerick, and to the Bailiffs and "probis hominibus" of Dundalk, Wexford, Youghal, Cashel, Kilkenny, Carlow, and Trim, requesting their "consilium et juvamen." These writs are preserved on the Rolls in the Tower; but as there is no Close Roll now in Ireland of that year, we cannot trace the Justiciary's writ of summons, or the proceedings of the Parliament so convoked.

Scotch
Roll,
Tower,
7 Ed. II.

There are several other writs and royal letters for summoning parliaments in Ireland, but they become too numerous for minutely detailing them. By letters patent under the Great Seal, dated the 11th of July, in the 19th year of this King's reign, the acts and proceedings of the several parliaments held in the 3rd, 13th, 17th, and 19th years of his reign are recited and confirmed, for the honour of God and of Holy Church, the maintenance of the peace, and the common profit of the people.

There is a statute enrolled which was passed in the 18th year of the same King's reign, by the Prelates, Earls, Barons, and "*tot le Comun Poeple*," enacting that the Common Law, the Ordinances of Dublin, and the good Usages of Ireland, be held and maintained in all their parts.

But there was a Parliament held at Dublin in the year 1322 which deserves our special consideration: in this Parliament it was enacted by the "common assent of the King's Justiciary, the Archbishops, Bishops, Earls, Barons, and the whole Community of the land, that the English statutes of Westminster, the 1st and 2nd of Merton, Marlebridge, and Gloucester, be observed; and that the other statutes made in

Statutes of
Ireland,
13 Edw. II.
in Red
Book,
Excheq.
Dublin.

England by the King and his Council be recited and examined before the Council of the King against the next Parliament, and those parts thereof which might prove fit for the people and the peace of the land should then be there confirmed and held, saving always the good customs and usages of Ireland. Provisions were also made for protecting the farmers and smaller landholders against the exactions of the nobility, who much grieved the common people "by sending their men, horses, dogs, and birds to be kept at the people's houses against their will," while others of great lineage brought large companies of horsemen and footmen from town to town, demanding *curtoisies* of money, provisions, &c. and threatening all those who refused them, &c. One law, however, then passed, has given this Parliament an unusual degree of interest; it is an act for holding parliaments yearly at least, and runs in the following words: "ET QUIL EYT PARLEMENT CHESCUN AN [UNE] FOITZ A MEYNS EN QUEL LIEU QUYL SEMBLE A LA JUSTICE & AU CONSEIL QU MEUZ FAIT A FAIRE Q' TOUZ LES G'NZ SEIGNEURS PRELATS & AUTRES Y VIEGNENT AL PERIL Q' AP'ENT:" and, strange as it may appear, this is the first time that the holding of parliaments in any part of Great Britain was expressly ordered by Statute Law framed by King, Lords, and Commons, without coercion or restraint, and peaceably and rightfully assembled.

Statute
Roll,
Dublin,
29 Hen. VI.
and 34 Hen.
VI.

This Act was afterwards recited and exemplified under the Great Seal by the King, and its provisions for holding parliaments yearly were confirmed in ordinances subsequently issued by the Crown. Accordingly we find the practice was to hold a parliament in each year, as may be gathered from an Act passed about the middle of the 15th century; and within five years after it was enacted by another statute that there should be *but one* Parliament or Great Council held in each year in Ireland.

It is unnecessary to pursue the history of Irish Parliaments after the year 1310, when the number of members chosen for each town, and the rights of the citizens and burgesses, seem to be completely settled: records concerning them can be

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abundantly collected from ancient statutes published and unpublished, writs of parliamentary summons, fines for absence, and other entries which crowd the public rolls: even in the several patents appointing Lords Lieutenant, there is a special clause empowering them to summon, hold, adjourn, prorogue and dissolve parliaments, pass laws, &c. and this according to the custom and usage of Ireland.

The names of the several places returning members at various intervals between the years 1300 and 1831 have been collected from writs of summons and parliamentary lists, and will be found in the annexed tabular form.* By this table it will be seen that though there was one class of places which uniformly and at all times returned members, yet there were others which, like similar places in England, not having sufficient population or consequence, were omitted for many years, and were afterwards summoned: among this latter class may be counted Clonmel, Kinsale, and the majority of those towns contained in the list of the 2nd of Elizabeth. On the whole, it will be seen that the representation was continually extending itself, and that the places sending members in the reign of George the Third were thirteen times more numerous than they were in the year 1359.

See Tabular
Form an-
nexed.

But there is one feature in the history of Irish Boroughs which deserves some attention; and this is, that no discontinuance or disuser barred the right of any towns to return members, whenever such towns were qualified or in a situation to claim and resume that right. The principle seems to have been acted upon in several instances; and afterwards, in affirmance of it, the following resolution of a Committee on the 17th Oct. 1614, was made a standing order of the House of Commons of Ireland, viz.—“It is agreed by the com-
“mittees that no cities or boroughs that have sent citizens or
“burgesses to the Parliament *holden the 28th year of the*

Commons
Journ. of
Ireland,
Vol.I.p.14.

* The several writs of summons and parliamentary Lists now remaining of record from the reign of Edward the First to that of James the First will be found at full length in a “*View of the Legal Institutions, Honorary Hereditary Offices, and Feudal Baronies,*” lately published by Messrs. Longman and Co.

"reign of Queen Elizabeth, OR IN ANY OTHER PARLIAMENT HOLDEN BEFORE THAT PARLIAMENT, shall be questioned withal for their power to send citizens and burgesses."

In a similar manner, it appears, no prescription was allowed against the rights of electors in those places. In all the ancient boroughs of the country, as will be hereafter shown, occupation of a tenement gave freedom and enjoyment of their liberties. Grants were also made of special privileges to persons "*quamdiu moram fecerint*" in such places; and after the ordinance of the Staple was published, Edward the Third granted new charters, whereby we find that foreign merchants when visiting boroughs were, on contributing to the tallages, aids, and other public assessments there made, to have freedom of such places. Now rights acquired under these circumstances or qualifications were such as prescription could not well grow up against. But further we find many statute rolls commence with a declaratory enactment passed at the opening of each parliament for preservation and maintenance of the liberties enjoyed in cities and boroughs; and there is scarcely one ancient city or borough without its charter, granting that the inhabitants and their heirs for ever should have all their former liberties, even though they had not on former occasions fully used same—" *licet ipsi vel eorum antecessores aliqua vel aliquibus libertatibus, &c. aliquo casu emergente plene usi non fuerint.*" By these latter charters, which almost each succeeding king renewed or repeated to the several towns, their inhabitants were secured in their liberties against any laches or bars incurred by their ancestors; and so late as the reign of James the First, when the whole power of the throne was directed against popular rights in the towns of Ireland, and even still later, in the reign of his son Charles, the charters granted with this clause appear intended by their terms to preserve from the consequences of disuser not only the rights of those corporate characters specially named in such charters, but also the elective franchise and all other the rights of the inhabitants at large. In the next reign, viz. that of Charles the Second, we

Statute
Rolls,
Dublin,
1 Edw. IV.
3 Edw. IV.
7 Edw. IV.
10 Edw.
IV. &c. &c.

find by the Journals, that committees of the House of Commons regularly sat to decide on Election Petitions; and we have proof that it was then considered that the right of Election could not be barred by time. From almost that period, however, until nearly the year 1800, when the British and Irish Legislatures were amalgamated, the great mass of inhabitants in cities and towns being excluded by Statute Law (since repealed) from any enjoyment of the Elective franchise, few cases occurred in which the question arose; but decisions have been made since the year 1800 fully establishing that no time, as has been above asserted, can bar the rights of any class of Electors. The latest of these was made on the 15th March 1830, when on a petition against the return of Sir Robert Wigram, Knight, as member to serve in Parliament for the borough of Wexford, the committee appointed to try and determine the merits of that petition reported, amongst other things, as follows, viz. — “ That all persons “ admitted to the freedom of the said town or borough by “ virtue of an Act passed in the 13th and 14th years of the “ reign of his Majesty King Charles the Second, entitled an “ Act for encouraging Protestant strangers and others to “ inhabit and plant in the Kingdom of Ireland, are entitled “ to vote at elections for members of parliament therein, according to the directions of the said Act and New Rules.” This report, pursuant to the statute 9 Geo. IV. ch. 22. was entered in the Journals of the House, &c. and is now the Law of Election for the borough of Wexford, although previously to such petition no electors of that description were ever allowed to vote for that borough; and though it was shown that if ever at any period such electors existed, yet for the space of a hundred and fifty years and more their right had been disused and discontinued.

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CHAPTER III.

HAVING seen that the Citizens and Burgesses of Ireland had voice in the Legislature at a very remote period, let us now advert to the origin of Cities or Boroughs in that country.

It appears that several tracts of land adjacent to the sea, near great rivers, or in such favourable situations, were set apart in Ireland as privileged places, freedoms, or boroughs, soon after the year 1170, and at some period in or before the year 1189, being the first-year of Richard the First. The time thus assigned for their origin is borne out by the pleadings filed by those ancient towns, in which they invariably, though at distant intervals and on distinct and different occasions, claimed existence from the first acquirement of Ireland, and from a time the contrary of which existed not in the memory of man.

These lands were granted to particular bodies of men for the purpose of inhabitation ; and as they were not of sufficient extent to enable the occupiers to render those military or knights' services, which at that period were usually reserved out of land, a rent in money either for each tenement into which the ground might be subdivided, or a gross sum for the entire tract, was reserved and made payable by the occupiers, their heirs and successors, for ever. Thus the City of Dublin, by King Henry the Second's charter, is granted to certain persons to inhabit, "ad inhabitandum;" and they were to hold same in fee farm at two hundred marks yearly rent. For the site of Drogheda borough at the Louth side, sixty marks were reserved. The town of Dundalk, as found

Ch. of Hen.
II. & Ch.
Rem. Roll
Dub. 16
Hen. VIII.

Rot. Pat.
T. L.
5 Hen. VI.

by inquisition, was first incorporated soon after the acquirement of Ireland, and divers burgesses were made there, and they were enfeoffed with divers burgages at the yearly rent of twelve-pence for each burgage, with land assigned to said town for common of pasture. Forty carucates of land were assigned also for the citizens of Limerick in burgage tenure, and at the rent reserved by the Justiciary of Ireland. Eighty-five burgages were granted to the burgesses of Rathmore, with land to each, as also a grant of half an acre in front, at the yearly rent of twelve-pence for every burgage. Burgages were assigned to the burgesses of Swords, at twelve-pence yearly payable out of each. In a similar manner were burgages and land granted for burgesses in Rathcoole at the same rent. And in Rossponte, Kilkenny, Inistiogue, Wexford, &c. we find that one shilling was the rent originally reserved out of each burgage with its appurtenances.

Ch. Rem.
Roll Dub.
6 Ed. II.

Chart. Roll
T. L.
17 John.

Blk. Book
Archdio.
Dub.

Ch. Rem.
Rolls Dub.
34, 35 Eliz.
34, 35, 36
Eliz. 5, 6
Hen. VIII.
32 Eliz. &c.

To secure the fealty of those on whom such tenements and burgages were conferred, and into whose hands some of the most important positions in the country were committed, it became the policy of the English Government to vest the inhabitants as occupiers of tenements in those places with peculiar privileges.

To enable them therefore to trade, they were exempted from the payment of tolls, and those customs called lastage, passage, pontage, &c. Merchants coming to their towns from other places with merchandizes for traffic, were no longer to stay or go as theretofore at their pleasure, but were in future only to remain for forty days. Foreign merchants also were prohibited from selling cloth by retail—from purchasing corn, hides, or wool from each other—from selling wine unless in their ships, &c. But the most valuable privileges conferred on them were, exemptions from those slavish burthens which under the Feudal laws then prevailing in England, and recently introduced into Ireland, all the tenantry were subject to: they were exempted, for instance, from answering outside the metes of their town for any offence committed within same; and that on this account justice should not be retarded, they had the high privilege

of holding a court among themselves wherein debts, trespasses, and offences were determined—they were allowed to substitute the trial by jury for the wager of battle or trial by single combat—their sons, daughters, and widows had liberty to dispose of themselves freely in marriage, without seeking for or purchasing the arbitrary licence of their great Lords, from whose custody the estates of their children during minority were also exempted:—to these and other immunities there was added full power to take toll—to have mercantile guilds—to improve on their tenements or holdings by building or otherwise—and to demise and alien such property as they wished.

This general outline of the liberties and immunities conferred on the ancient cities and towns of Ireland has been drawn from an inspection of many of their earliest charters.

But the enjoyment of all such privileges was only to be obtained on the *principle of inhabitation*: granted at a period when the language of public instruments was simple and expressive, there cannot now be a doubt as to the persons for whose use were intended those liberties which we find conveyed by charter to the “Hominibus de Drogheda,” the “Burgensibus de Dungarvan,” or the “Civibus de Limerick.” We need not however resort to a critical examination of the terms thus used, as there is evidence of a clearer and more positive nature on the subject. In the charter to Dublin of the 15th May 1192, all the valuable liberties therein detailed are granted to the citizens of Dublin *dwelling or remaining* (“*manentibus*”) *within the metes* of that city. In the great charter of Liberties to Waterford, all the privileges are granted to the citizens within the walls of said city dwelling or remaining, “*infra muros dictæ civitatis manentibus*.” In a similar manner many other charters might be cited, but, to avoid detail, one only will be noticed: this is a charter to Inistiogue, an ancient Parliamentary borough, which expressly declares that every burgess, after the first seisin or assignment made to him of his burgage, shall make residence within three weeks, or shall forfeit his tenement for ever, “*in eadem villâ residenciam &c. fuciat, vel imperpetuum tenemen-*

Charter of
Waterford,
3 July,
7 John.

Charter of
Inistiogue,
34, 35, 36
Eliz.
Ch. Rem.
Roll. Dub.

tum suum amittat. There are numerous pleadings and inquiries also by which the same point can be established: thus, in the year 1383, proceedings were had against the bailiffs of Dundalk, for that, John Druming and other strange merchants who visited the town were disturbed by them and prevented from selling or cutting their cloth &c., to the great damage of the people adjacent;—the defendants pleaded amongst other things that time immemorial no strange merchants, nor any other except the burgesses of same town *in same town dwelling*, any cloths, wines, salt, or other merchandize could buy or sell by retail there, without licence of the bailiffs, and those doing so were attached by the bailiffs, &c.;—whereupon a jury being summoned, a verdict was found, that time immemorial the burgesses and bailiffs of Dundalk continually used this liberty, that if any merchants except the merchants who were burgesses of same town and *in the same town dwelling*, “*præter mercatores qui fuerunt burgenses dictæ villæ & in eadem villâ commorantes,*” should buy or sell by retail without licence, they were attached &c., and judgment was given for the defendants.

There are many other records to the same effect. In 1222, Henry the Third, by his ordinance, declared that taking and holding tenements within those places, unless accompanied by residence and occupancy, did not give freedom; and Edward the Third granted several valuable rights to the ancient towns and their inhabitants so long as they dwelt within same: these, however, will be cited hereafter, as sufficient has been already said to show that the liberties of privileged towns were obtained only by inhabitation; further, that non-resident freemen were never contemplated at the first establishment of boroughs; and that the Act of 10th Henry the Seventh against making such non-residents, was but a revival of the ancient constitution of those towns at a time when their liberties were beginning to be perverted. But to return—

As cities and towns were established on this principle of inhabitation, all persons occupying burgages or tenements within them, and constantly residing and bearing the common

Ch. Rem.
Rot. Dub.
29 Hen. VI.

Stats. of Ire-
land, 10
Hen. VII.
ch. 7.

charges, enjoyed all their liberties, and aggregately formed what is now usually called the Corporation.

This was the constitution originally of all the boroughs in Ireland; and though in the present age we scarcely ever contemplate a corporation but only as a few individuals in the centre of a city or great town, clothed with exclusive and unpopular privileges—some mere fiction of the law, incomprehensible to the many and approved of by few,—yet those bodies, when first established, were formed on strictly popular principles, and were composed of all the inhabitants occupying burgages or tenements within the respective places.

If direct proof were wanted to support this opinion, there could be found many reasons strong and almost conclusive for justifying what has been asserted.

In the first place, the population of those towns, during two or three centuries after their establishment, was too limited to admit of any distinction or exclusion amongst the inhabitants; besides, as all such walled towns, garrisoned and fortified by the inhabitants, were, in Ireland, considered by the Crown to be a principal support of English government, so it would be unreasonable to presume that the great body of the inhabitants, on whose numbers and prowess the safety of the place depended, should be left in a state of abject slavery, while a few, whose limited numbers deprived them of all consequence, were solely and exclusively enfranchised, and vested with rights well calculated to provoke the jealousy of the inhabitants at large.

Frequently also, in the King's writs, charters, &c. from Henry the Second to Edward the First, the persons enjoying the liberties of those towns are called simply "*homines*," an appellation, of course, common to all their inhabitants. Furthermore, for some centuries there is not to be traced in any of their charters any expression by which it would appear that in the mind of the King, or in contemplation of law, there existed any individual inhabiting and remaining in those towns, who was to be shut out from the benefit of the liberties then granted: the *serviens* (male-servant or apprentice)

and the *ancilla* (female servant), who are particularly named in the charters of Wexford and Kilkenny, alone excepted.

The early grants made to privileged towns are in the records called the *Frankes dones*, or *free gifts*; and of these two words the term *Freedom*, as at present applied to the enjoyment of corporate privileges, is compounded. Now, the first and most essential of those *Frankes dones* was the free gift of the ground on which the town was erected: this preceded all other privileges; and it is evident that every inhabitant holding a *burgage* or *tenement* was therefore possessed of a portion of one of the primary and most important free gifts, rights, or liberties conferred by the Crown.

But in the charters to all the ancient towns, a clause is invariably to be found excluding the *extraneus mercator*, or the *forinsecus homo*, under particular circumstances, from the enjoyment of their liberties. Now, the person so described it would be difficult to mistake, as generally there are some words, either precedent or subsequent, whereby it is shown that the "*extraneus mercator*," or "*forinsecus homo*," was but a casual visitor at those places: and when we find successive kings cautiously guarding the liberties of towns against the intrusion of those who but casually visited such places, it appears reasonable to presume, that if any class of persons resided in those towns who were not entitled to their liberties, the Crown would, with a caution much more justifiable, have specially excluded them, or mentioned them in its numerous charters.

Moreover, it appears that after those ancient institutions had undergone considerable alteration, but still while the memory of their original establishment was sufficiently preserved, informations and other proceedings as to their rights were brought by the officers of the Crown; and in the course of those proceedings we find a corroboration of what has been above advanced; for there are pleadings as to the city of Cashel and other ancient corporations, distinctly setting forth that their corporate privileges were originally vested in all the "*citizens, inhabitants, and residents*" of such places. Nay

Charters of
Dublin,
Drogheda,
Dundalk,
Waterford,
Ross,
Inistiogue,
Kilkenny,
Wexford,
&c.
"Forinsecus sive
extraneus
mercator
ad villam
tempore
quocunque
veniens."
Chart. of
Wexford

Quo Warr.
time of
James I.
and Chas. I.
Ld. Treasur.
Rememb.
Dublin.

more, in the seventeenth century, after King James the First new-formed the corporations, and endeavoured to extinguish all popular influence in those towns, he issued his charters for the purpose. By these charters having vested all municipal authority in the fewest numbers, and deprived the inhabitants generally of their full share in the government of such towns, he was content, under those restrictions, to restore or confirm to the persons now newly incorporated the benefit of all former grants or privileges; and, in doing this, he is obliged invariably in such new charters to mention the early grants made by his progenitors to the *BURGESSES* or *INHABITANTS* of such places by whatsoever name named, given, or granted.

But quitting these and many other more forcible arguments which might be adduced, we will now proceed to some positive authorities on the subject.

In the great charter to the citizens of Dublin, dated the 15th of May 1192, it is specially granted that they should have all holdings within their metes, and should be able for their advantage to set or dispose of them, as also of the waste and unimproved lands; and when so disposed of, that they should be held in *free burgage*, and at a rent which this charter calls the service of Langable. Similar power was granted to Waterford, Drogheda, Limerick, and other the more important cities and towns, enabling them to subset or alienate their lands; but, as in Dublin, all such lands were directed to be held in *free burgage* by the freeholders or tenants, and the description of tenure thus prescribed by the Crown secured to all so acquiring lands or tenements, a participation in the privileges and liberties of those places.

“Quod possint de tenementis suis per 20 pedes terræ liberos facere tenentes, ita quod communem cum burgensibus habeant libertatem.” Chrs. of Rossponte, &c.

In the charter of incorporation of Rossponte, the burgesses are empowered out of their tenements for twenty feet to make *free holders*; and it was further granted that the free holders so made should have *liberties in common with them the burgesses*. On the creation of the borough of Inistiogue, there were assigned a burgage and three acres of land to each burgess; and by the same charter it was granted that out of such their burgages and holdings, they might make free holders to the extent of twenty feet; and further,

as in the above case, that the free holders so made should have liberties in common with the same burgesses. In a similar manner, a power of making free holders in their holdings, who should enjoy all the liberties of their town, was granted to the burgesses of Kilkenny and several other places in Ireland.

Chr. of
Inistiogue.

Chr. of
Kilkenny.

Thus the beneficial power of setting or alienating their lands was granted only on condition that their tenants should hold in free burgage, or become burgesses, and have a community of privileges with the citizens and burgesses to whom these charters were granted ; and it must be observed, that these records negative the idea of peculiar or exclusive privileges in any class of inhabitants, and prove such to be repugnant to their original establishment and constitution, particularly where the Crown showed such aversion to the creation of any lower or baser tenure than that reserved in the original establishment or free gift of those places.

Hence every inhabitant holding a tenement in a city was a citizen, and in a borough was a burgess, whether such tenement was derived mediately or immediately under the Crown ; and on this principle we find King John in the year 1205, when it became necessary to fortify the city, addressing his writs to the citizens of Dublin, "*Civibus de Dublin,*" and commanding them "*ad civitatem suam firmandam, &c.*" *UNUSQUISQUE EX PARTE SUA* ; and declaring that unless they do so, the Justiciary would compel them. On this important public occasion, it is clear that King John considered all persons occupying a portion of the city, as citizens, and as such he addresses them, commanding them that each should fortify his own share.*

Pat. Roll,
T. L.
6 John.

* The tenants under the city were numerous ; and there can be little doubt but a very minute subdivision had soon been made of the city ground. Thus, in Trinity Term, 16th Hen. VIII., John Fitz Simon, Mayor of Dublin, when accounting for the fee farm rent of two hundred marks due to the Crown, claimed an allowance of forty shillings for his labour in collecting the rent in small portions from the tenants, viz. two-pence from some, three-pence from more, four-pence from others ; and this sum of forty shillings, he pleads, had been *allowed time immemorial* to his predecessors for their trouble

Chart Roll,
T. L.
17 John.

In like manner, when some doubts arose as to the lands previously granted to the citizens of Limerick, and which they had subset in *free burgage*, King John addressed his letters to *all persons* who had acquired such lands under the city, or who should acquire them thereafter—"omnibus qui terras ceperunt vel capient de Civibus Limerick de quadraginta carucatis que assignate fuerunt Civitati Limerick in burgagium,"—and confirmed to them their estates and interest therein, as also *all the liberties and free customs to the same appertaining*.

When Henry the Second first granted the city of Dublin for inhabitation to certain citizens, there were some places within the metes then newly made which had been already possessed by others as tenants under the Archbishop of Dublin, the Knights Templars, &c.: such holdings are specially mentioned in the Charter of Liberties granted on 15th of May 1192, which has a saving that the city should not dispose of them as of other lands, but that the tenants of them *should do all customs of the city as other citizens*," quod non possit civitas de terris illis sicut de aliis disponere; SET FACIANT COMMUNES CONSUETUDINES CIVITATIS SIOUT ALII CIVES: de illis autem hoc dicimus qui cartam nostram habuerunt de aliquibus terris infra easdem metas extra muros antequam prædictas libertates et hanc cartam concesserimus." From the language of this charter it is clear that there existed no class of persons exclusively privileged, as the record recognizes the rights of those who happened to have possessed lands before the first grant of the city, and classes them as citizens, "SIOUT ALII CIVES," entitled to all the benefits of the grant on doing the common customs of the city.

Blk. Bk.
Archdio.
Dub.

Afterwards an agreement was entered into between the Archbishop and the citizens of Dublin, whereby it was agreed those tenants or men of the Archbishop or of his clergy, *dwelling*, on such lands, who *are or wish to be partakers of the*

and labour in the collection. If an average could be formed from what is here stated, the number of tenements must have been exceedingly great for the period.

liberties of the city, “*qui participes sunt et esse volunt libertatis civitatis*,” should be so on their paying with the citizens, taillage for strengthening the city, and likewise contributing with the citizens when aids or taillages were required by special mandate of the Lord the King. It appears from this that it was then quite voluntary or discretionary with the Archbishop’s men whether they would enjoy the city liberties: this however was owing to their being tenants and suitors of the Archbishop, who was a great Baron holding a court (which court, it should be observed, exists to this day) to which they were suitors, and in which, as ecclesiastical tenants, their subsidies or aids should be granted distinct from all aids granted by laymen: hence they had a choice or selection of that jurisdiction which they might prefer; but the record clearly establishes that, as holding lands within the metes, they were entitled to the liberties, and should enjoy same, on contributing to all the common charges and Parliamentary aids voted by the citizens.

There was an ancient law made in the same city, which goes to show that its inhabitants enjoyed the franchises. This is a law which orders that if *any one of the city* makes plaint to the bailiffs of the Archbishop, and could have redress in the City Court, he shall be fined twenty shillings, and if he has not goods whereout to pay the fine, he shall be imprisoned for forty days, if he has not the pardon of the Mayor and Commonalty; and the reasons for this are, that *he has broken the franchises of the city*. The words of the original are, “*E SI NUL DE LA CYTE se pleint la Com as Bailliffs l’Ercevesque, &c. &c. et la resuns pur ceo q’il est entour de blemir les fraunchises de la cyte*.”—from the general nature of the words it is clear that every person of the city, as the document has it, was a partaker of, and interested in its franchises.

But some attempts being made to abuse the privileges of those cities and towns, two ordinances or mandates were issued by the Crown, which in themselves are sufficient to show the original constitution of boroughs, and to warrant every thing that has been above stated. It appears that by

the Charters of Henry the Second and John, the inhabitants of many ancient towns were exempted from paying tolls and duties on their merchandize, not only in Ireland, but throughout the King's dominions: this was a privilege of great importance, and much desired for trading purposes. In consequence, we find that in the year 1222, or about fifty years after the first establishment of those privileged places, some persons acquired tenements or holdings in those towns, and though not residing there, thought to have a freedom from their tolls and customary duties: such circumstances, however, being represented to King Henry the Third, he issued his mandate from Westminster on the 17th day of May in that year, and after reciting therein that he understood that certain foreigners (*homines forinseci*) *not dwelling* in the cities and towns of Ireland, took places and messuages in Waterford, Limerick, and other the good towns, by which the custom of same was diminished and deteriorated, to the King's loss and the damage of said towns, he commanded the Justiciary not to permit any persons in future to take places and messuages in the above manner to the detriment of the King and of those towns.

Close Roll
T. L.
6 John.

In about two months afterwards the King was obliged to issue another order on this subject, and the language of the document leaves no doubt as to the right of inhabitation. In this latter mandate, which is dated from the Tower on the 18th of July in the same year, his Majesty orders the Justiciary that he should not permit any one to have a freedom from toll or other customary duties in Waterford and elsewhere, by reason of lands which they took and held in that town, unless they be *cubantes et levantes** in the town, and *at lot and scot commonly with the burgesses there residing*.

Same Roll.

These two ordinances are corroborative of what has been already advanced on the subject of Freedom in the ancient towns of Ireland, and being almost tantamount to a positive declaration of law, that all persons, even foreigners, by

* *Cubantes et levantes*, lying down and rising up to feed.—Blackstone.

taking tenements and residing in towns and bearing the common charges thereof, were entitled to the liberties and freedoms of such places; they have been copied from the original Rolls in the Tower, and will be found in the Appendix to these sheets.

See Appendix, No. II. and III.

Strictly analogous to this principle are some of the charters which excluded the "extraneus mercator" from liberty of selling and buying but only in his ship, and for a given number of days, unless such strange merchant be at scot and lot with the burgesses, "*nisi sit ad scotum & lotum cum prædictis burgensibus.*"

Charters of Rosse, &c.

On the same principle, when by the Ordinance of the Staple King Edward the Third granted liberty to all merchants, on arriving at the staple of cities and towns in England, Ireland, and Wales, to sell their merchandizes there by retail or in gross, without any disturbance, the inhabitants of the towns of Ireland petitioned the King, and set forth that such merchants came to their towns and bought and sold there in gross and by retail, as freely as the merchants of the same places, and so they not only engrossed all the profits of sale, but also of purchase, without contributing to the subsidies and other common charges necessary for defence and support of such places: whereupon the King granted new charters to the several ancient towns, and after noticing the petitions on the subject which they had presented, he granted as follows, viz. That all strange merchants buying or selling in those towns according to the form of the statute (Ordinance of the Staple) aforesaid, should, for supporting *aids*, *talliaiges*, and other charges incumbent on said city, pay and be bound to pay with the citizens according to the quantity of merchandize bought or sold. These charters were accordingly sought for and obtained by Dublin, Waterford, Drogheda, Cork, Limerick, Ross, and most other the ancient towns, and they show that even those who but casually and for a time visited such places, were partakers of their privileges on sharing in the common charges.

Edward the Third also issued new charters to the several ancient towns about the commencement of his reign, and

Chrs. of
Drogheda,
Dublin,
Limerick,
Cork, &c.

thereby granted them a liberty of much consequence, namely, that the citizens and burgesses of those places should not be placed on juries in cases arising before the King's judges, and that they should not be made sheriffs, coroners, &c. outside such towns, so long as they resided within them, "*quamdiu moram fecerint in eadem.*" In about a hundred and thirty years afterwards, when the office of Sheriff was elective by the commons of counties, Richard Marward, Baron of Scrine, was called in the Exchequer to answer why he, being elected sheriff by the commons of the county of Dublin, did not take the oath in court, and discharge or take on him said office: he pleaded one of the above charters, which had been granted on the 13th October 1334, to the "*mayor and citizens*" of Dublin, exempting them and "*their heirs and successors, citizens of the city aforesaid,*" from the office of county sheriff, so long as they dwelt within same city: and he further pleaded, that *he is a citizen of said city, and was at the time of said election, and was commorant and expectant in the said city at the time of said election, and long before, &c., all which he is prepared to verify, &c.*—

Ch. Rem.
Roll Dub.
10 Edw. IV.

"*quod ipse est civis dictæ civitatis, et fuit tempore dictæ electionis, et commorans et expectans in dictâ civitate tempore dictæ electionis, et diu antea,*" &c.—and he had judgment, and was exonerated from said office and quieted as to the premises. In a similar manner Sir Robert Burghyll, Knight, was sued for same reason, and he, after pleading the above charter, also pleaded that *long before said election, and at the time of said election, and the whole time after the election, he was and still is a citizen of said city, and dwelling in said city, and that he wishes not to be sheriff of said county, &c.; whereupon judgment was given for him, and he was exonerated from said office.*

Ch. Rem.
Roll, Dub.
14, 15 Edw.
IV.

Here we have not one word as to the admission of those persons to the franchises of the city; but on the contrary, the pleadings furnish proof that down to the year 1474, or for more than three hundred years after their first establishment, the simple fact of inhabitation in a city gave citizen-

ship, and entitled such inhabitants to the benefit of the chartered, or, as they are now called, the corporate rights of such places.

In a statute passed in the third year of Edward the Fourth, free liberty to trade with all persons, whether enemies or otherwise, was granted to the cities and towns of Limerick, Cork, Waterford, and Youghal, and the "enhabit-auntz" of same.

Stat. Roll
Chanc.
Dublin,
3 Edw. IV.

In a statute also passed in that reign respecting the surrender of Thomas Kelly to the constable of the castle of Dublin, an ancient law of the city is recited to this effect, that *whatsoever man* residing in Dublin sues another man residing in Dublin in any other court than the Tholsell of the city, shall lose 10*l.* to the mayor and bailiffs of same, and his franchise—"Et auxi la Cite de Dyvelyn ad fait une Ley, que *quiconque home* qui dem'e en Divelin qui sue une aultre home qui dem'e en Divelin en ascun aultre Courte que en le Tolsell, &c. *perder* 10*l.* d'argent as maior & bailliffs de Divelin & son *Fraunchise*." Here it is clearly contemplated by the law, that every man residing in the city partook of the franchises and liberties of same.

Stat. Roll
Chanc.
Dublin,
12, 13 Edw.
IV.

In another statute passed in the same king's reign, it is provided that every citizen accused of felony or treason should be delivered out of jail upon mainprize, and admitted to trial or purgation upon the Holy Evangelists, by twenty-four of his neighbours, lawful free men and residents of the city, and in this statute the words citizen and free men are used as commutable terms, "Citeceins ou franq home del dit Cite," and "franq home ou Citeceine" of same.

Stat. Roll
Chanc.
Dublin,
15 Edw. IV.

In a statute also which was passed soon after, the Legislature recognised the franchises and liberties of those towns to be vested in the inhabitants, citizens or burgesses, without distinction; for on that occasion it was enacted that the coin then newly issued should pass current; and that if the *inhabitants, citizens or burgesses* of Waterford, Wexford, Ross, Kilkenny, Dungarvan, Youghal, Cork, Kinsale, Kilmallock, Limerick, Galway, and Athenry (all ancient Par-

Stat. Roll,
Chan. Dub.
1 Ric. III.

liamentary boroughs) should refuse same, they should forfeit and lose *their franchises*. until they paid a fine to the King.—“*Forfaicte et perdre lour franchises,*” &c.

In the fifteenth century we find that there had grown up, by custom or usage, in those towns, three distinct rights to freedom, in addition to the ancient right by inhabitation. These were, a right by marriage, by apprenticeship, and by birth; and these rights of freedom, however afterwards they may have altered, can decidedly be traced as flowing originally from inhabitation. The first Act that notices them is the Act of Poundage, passed in the reign of Henry the Seventh, which exempts from payment of poundage the freemen of certain towns being free by birth, apprenticeship,* or marriage, “and *dwelling within the same,*” which qualification nearly reconciles those three rights to the ancient law of the boroughs.

Stats. of
Ireland,
15 H. VII.
ch. 4.

But in the same century a practice commenced, and was for some time used in those towns, which seemed likely to be of pernicious consequence to the inhabitants: this was, a right assumed by the towns of admitting to their franchises and making free, persons not entitled by birth, apprenticeship, marriage, or inhabitation, and who, in later times, have been called Non-resident Freemen. It appears, as already noticed, that some of those places, by their charters, had exemption from tolls and duties through all parts of the King's dominions; and such a privilege induced many English and other merchants to seek the freedom of such places: accordingly, we find instances of persons from Manchester, &c. being admitted and accepted to the liberties of the towns, they to enjoy same through their agents and servants,

* The charters of Guilds in the fifteenth century throw much light on the subject of apprentices. It appears that they should have served seven years or more in the town before admitted to their freedom; and it was in consequence of this past inhabitation, and in contemplation of their residing there in future, evidently, that apprentices first had the right. They were to prove themselves “*habiles*” to exercise their trade, mystery, or art before the Guild; and such seems the only requisite for being admitted according to the charters, notwithstanding the numerous difficulties which some supposed to exist in claiming this right.

while residing in England, as if they were dwelling within the City of Dublin. These admissions, however, were almost solely for trading purposes, as we find by the qualifying clause,—“so that they may be able freely to buy and sell through the whole royal dominions, as well in England as in Ireland, as the citizens of same city can, and as in the great charters of the land anciently granted to the citizens more fully appears.”

“Ita quod,”
&c.
Ch. Rem.
Rot. Dub.
12 H. VII.

The officers of the Crown, indeed, viewed this novel mode of creating citizens, or freemen, with considerable jealousy, and particularly as by some statutes granting poundage on merchandize to the Crown, passed in the reign of Edward the Fourth, an exemption from such duties was made for the resident free men of Dublin, Waterford, and Drogheda. In consequence, several proceedings were had in the Exchequer against such persons; and from those proceedings it can be collected, that wherever strangers newly admitted became residents in the towns, they succeeded in maintaining the rights which, under the constitution of those Boroughs, freemen or inhabitants were legally entitled to; but, on the contrary, where a non-resident person claimed immunities in right of such admission, the liberties were denied him. Thus, in the 20th of Edw. IV. an information was brought against James Welles, merchant, for not paying poundage on merchandize landed at Dublin, agreeably to the Act of Poundage 10th Edw. IV.: to this he pleaded, that in the Act of Poundage the freemen commorant in the City of Dublin are excepted; and that he, at Easter 1469, in a congregation of the citizens held before the Mayor and Bailiffs, was made free, and so he was a *man free* and *dwelling* within said city at the time, &c. and this he is ready to prove; but the King’s Serjeant, John Estrete, having joined issue as to the fact of dwelling, a jury was summoned, who found that the said James was *not continually dwelling within said city*; wherefore judgment was given against him, and the merchandize was forfeited to the King. On the other hand, Richard Beswyke, of Dublin, merchant, was sued for poundage of merchandize due at Drogheda, and he pleaded the same

Ch. Rem.
Rot. Dub.
20 Edw. IV.

exemption in the Act of Poundage, and that he, on such a day, was admitted to the liberties and franchises of the city of Dublin by the name of Richard Beswicke, junior, of Manchester, in the county of Lancaster, merchant; and further, that before and after the time supposed in the information, he was continually a free man of said city, and yet is, and also *dwelling within said city, &c.* all which he is prepared to verify: whereupon Sir Patrick Barnewall, the Attorney General, being unable to gainsay this plea, judgment was pronounced for the defendant.

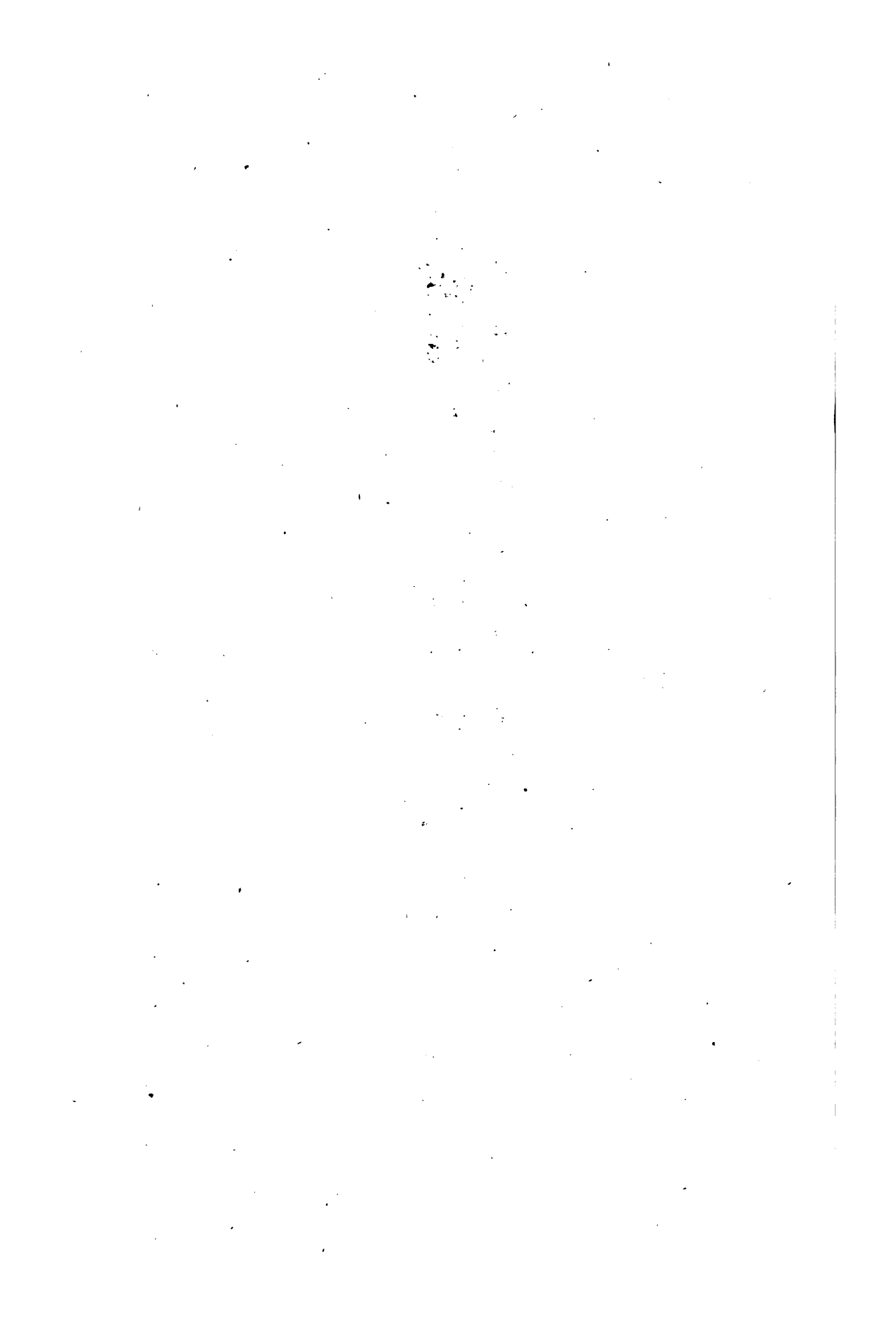
Statutes of
Ireland,
10 Hen.
VII. ch. 6.

But the great towns of Ireland having resisted the authority of Henry the Seventh, through the influence of the lords and gentlemen whom they had improperly admitted into their franchises, and at whose instigation they revolted, statutes were passed which restored the ancient law, and speedily checked the novel and pernicious practice above mentioned. By one statute it is recited that the cities and great towns *had been abused, and had inordinately demeaned themselves contrary to their natural faith and allegiance*, not doing their *duty to the King*, but being *retained by divers lords contrary to their own laws and customs*, the which retainders had been a great cause of all the trouble within said land: it was therefore enacted, that no Citizen, Burgess, or Freeman should receive livery or wages, or make promise or surety with any lord or gentleman, under penalty of loss of freedom and liberty, and expulsion out of the city, &c. By another statute it was enacted, that **NO CITY OR GREAT TOWN SHOULD ADMIT ANY TO BE ALDERMAN, JUROR, OR FREEMAN, BUT SUCH ONLY AS HAD BEEN APPRENTICES, OR CONTINUALLY INHABITING IN THE SAID CITIES OR TOWNS**, and that the Mayor and Commons of any city or town offending in the premises, should forfeit one hundred marks to the King as often as they offend; and it was further enacted, that these present Acts be established for law in cities and towns by authority of their own councils, and there to remain of record for the common benefit of said towns.

Same, ch. 7.
See Fac-
simile.

The above Acts, besides extinguishing the unconstitutional power of the Nobility in corporate towns, suppressed all

Item praveu the comens that now lutee ne grete foden & in the land off Ireland fro
this tyme forth shal receyve or admittie any pson to be alghemen quye or ffremew & withyn
any of the said & need or foden but such pson as have ben ppyrse or ben contynuelly
cushabite in the said & lutees or foden &c.



further attempts to make non-resident freemen. The laws thus enacted were the law of Ireland for the next three hundred years, and were enforced, as will be seen, by proceedings hereafter recited. In several charters to towns subsequently granted, there are forms of oaths prescribed to be taken by the sovereigns yearly, and by the burgesses, &c. on their admission, wherein the sovereigns swear not to admit persons contrary to these statutes, and the burgesses swear that they will not accept retainers or be retained, &c. These oaths are taken at the present day ; and it is strange to add, that some of those towns where such oaths continue to be still taken, are the most remarkable for non-resident freemen, and are now perhaps more than any others unconstitutionally and illegally "retained with the said lords contrary to their owne laws and customes," and in violation of their charter oaths.*

There is an important document which in point of time deserves notice here. It appears that in the 14th Hen. VII. Thomas Bermingham was sued for subsidy due on the lands of Little Cabragh in the county of Dublin: he pleaded that by a statute passed in the 2nd year of the same king's reign, the lands of Cabragh near Dublin, for the reasons therein mentioned, were made part of the franchise of the city of Dublin; and it was enacted that the *inhabitants and all the tenants* of same should have and enjoy for ever all the liberties, freedoms, and franchises of the city of Dublin in

Chief Rememb.
Roll, Dub.
14 Hen.
VII.

* In the course of last Session, James Talbot, Esq. who had been put in nomination by the inhabitant householders of Athlone, petitioned the House with a view to determine the right of election in that town, and amongst other documents brought forward a copy of the Incorporation Charter to tender in evidence before the Committee appointed on the occasion. In this charter the oath taken annually by the Sovereign is set forth, and he thereby solemnly binds himself "noe person to receave into the *franchises of the said town*, *contrarie to the ordinance thereupon made*:" the oath of the freemen is also prescribed, and it appears they swear not to become *retayners*, &c. Notwithstanding such direct allusions, however, to the above statutes, two-thirds of the corporation were shown to be non-residents; and other circumstances appeared which left no doubt but the acts of 10th Hen. VII. had been totally misunderstood or forgotten. In the charters of several towns, similar references to the Statute Law will be found.

like manner as the citizens and denizens of same had and enjoyed them: and further that the *tenants* and *residents* of Cabragh should be thenceforward cleared and discharged of all impositions, taxes, charges, subsidies, &c. levied or leviabie on the county of Dublin, and that same should only be under the jurisdiction of the mayor, &c. of Dublin. This statute he pleaded at full length, and accordingly had judgment of exoneration as to the lands above-named from all subsidy due on the county.

Ch. Remb.
Roll, Dub.
8, 9 Hen.
VIII.

In a similar manner, a townland called Barnatty, adjoining Drogheda, but lying as shire land in Louth county, was by another statute made part of the franchises of Drogheda, and all the "*dwellers, tenautes, and land occupiers* of the "*foresaid lands and tenements in Barnatty aforesaid, and recidenciaries of same,*" were vested thenceforward and for ever with all the *liberties, freedoms, and franchises of Drogheda*; and they and their lands &c. were exonerated from all county taxes, subsidies, &c. and were in future to be only under the jurisdiction of the mayor &c. of Drogheda.

See Appen-
dix, No. V.
and VI.

In neither of these statutes is there any thing as to the admission or acceptance of the landholders, tenants, and occupiers into the liberties of the city or town; but, agreeably to what has been stated throughout this chapter, the law made residence on, or occupation of any portion of those lands the only qualification thenceforward for enjoying the liberties and freedom of those two places. Such records are of peculiar importance in many respects, and therefore, for the reader's satisfaction, perfect copies of them will be found in the Appendix.

Ch. Remb.
Roll, Dub.
25 Hen.
VIII.

From some of the charters granted in the next reign, we find that Henry the Eighth recognised the rights of the inhabitants at large in their corporate capacity; and an important charter which he granted to Dublin on the 19th of February, in the 24th year of his reign, is addressed as well to the "*Mayor, Bailiffs, and Commons of the city aforesaid,* and to the Mayor and Commons, as also to the *Mayor, Jurates, Burgesses, Citizens, men, inhabitants, and Commons of the same city*; and this charter is here noticed in consequence of

the size and large population of that city, which would afford some pretence for an exclusive or select body of persons as a corporation, if any exclusive body had been then known in the towns of Ireland.

But no exclusive communities can be traced, and the inhabitants in general of those places exercised and enjoyed in common the usual privileges. There is a proof of this in a statute passed in the same reign, whereby it was enacted that citizens and burgesses returned to Parliament (who in the earliest writs of summons are ordered to be elected by the community of the citizens and burgesses in each place) should be chosen and elected BY THE GREATER NUMBER OF THE INHABITANTS of said towns; and hence we may perceive that the privileges of such places were still enjoyed on the principle of inhabitation.

Statutes of
Ireland,
33 Hen.
VIII. ch. 1,
s. 2.

The constitution of the ancient towns continued to be preserved and maintained during the remainder of the sixteenth century; and particularly those salutary statutes passed in the reign of Henry the Seventh were strictly enforced, as already noticed. Under one of the Acts, *Qui tam* informations were filed in the reign of Queen Elizabeth against the mayor and several members of the corporation of Galway for accepting livery and becoming retainers, and proceedings were also had in the same Queen's reign, and a verdict found of "700 marks penalties against the *superior burgesses and community of the town of Naas, for admitting the persons therein named into the liberties and franchises of the town, and making them free men, jurors, and brethren of same, they never having been apprentices in the town, contrary to the form of the statute of the 10th year of the late King Henry the Seventh, in such case lately edited and provided.*" It was heretofore said that this statute had not the force of law, and that it was but an ordinance: this perhaps arose from the imperfect and garbled manner in which the statutes of that year have been printed. It was said again that, even if a statute, its penalties could not be enforced against places not specially named in it. To remove therefore those doubts, and to show that it was a public statute, was pleaded as

See Fac-
simile; also
Appendix
No. VII.

such, and was enforced nearly one hundred years after its enactment, a fac-simile of the verdict from the Court Roll of the year 1596 is presented for the reader's inspection, and a copy in modern characters of the same record will be found in the Appendix.

The inhabitants of borough towns continued to preserve their liberties, and enjoy all immunities in common, even after the above period. Thus, Edmond Britt, of Inistioge, in the county of Kilkenny, *husbandman*, and Ellen Lennan, of the same, *widow*, petitioned the Lord Deputy and Council, "complayning that where the towne of Inistioge afore-
" said sithence tyme to the contrarie whereof there is noe
" memorie of man, hath ben an auncient borough, out of
" which burgesses have ben sent to all parliaments houlden
" within that realme, and also that during the tyme afore-
" said, as well the said borough, as the *inhabitants and bur-*
" *gesses* thereof have ben exempted from all taxes, cesses,
" and contribucons of the county of Kilkenny for their lands,
" tenements, and goods, which have ben and are within the
" said burgadge, and the franchizes and bonds of the same," &c. being "allowed as an auncient freedome:" this how-
ever notwithstanding, the collectors of the composition money due to her Majesty out of the county of Kilkenny took, and as yet detain, two garrans price 8*l.* the goods of said Edward and Ellen, alleged by them to be due on the said borough, where, in truth, no part of said money was due on said borough; and therefore they prayed remedy. This petition was referred for examination and enquiry; and commissions having issued under the Exchequer Seal, interrogatories were taken, &c.; and the facts being found as set out in the petition, that it had returned members to Parliament from time immemorial, and *that the same borough and the inhabitants thereof*, with their lands, tenements, and goods being within the same, have been since the time aforesaid exempted and freed from all contributions, charges, impositions, cesses, and other the common charges of said county of Kilkenny, &c. it was adjudged and ordered on 8th February 1593, that the said garrans should be restored, and

Ch. Rem.
Roll, Dub.
37, 38 Eliz.

that the said borough and *its inhabitants* should thenceforth enjoy their liberties and exemptions, &c.

But in some time after the accession of King James the First, the constitution of those towns underwent considerable and essential alterations. In the reign of his predecessor, two statutes relating to the Crown's supremacy and uniformity of Common Prayer had been passed, but, through the sound policy of Elizabeth, neither statute had ever been enforced except as to the clergy and leading functionaries in civil trusts under Government. The King, however, despatched presidents or military governors through the provinces, in order that such statutes should be immediately enforced, particularly in the corporate towns; and when, from the language of the historians who panegyryze those presidents, we find their threat was to *cut with King James's sword King John's charters to pieces, to level the cities with the ground and strew them with salt*, we may form some idea of the respect which they entertained for long-established rights and chartered liberties. On arriving at those towns, they convented the mayors and other leading persons before them, and after some further proceedings they deposed those officers, imprisoned them during his Majesty's pleasure, imposed heavy pecuniary penalties, and for payment of these fines had their goods and chattels sold in the public streets. For a knowledge of these latter proceedings we are not indebted to historians; the detail will be found in reports exultingly made by the presidents themselves to Government; and as they are facts heretofore little known, and appear indispensable for rightly understanding the history of corporate institutions in Ireland, copies of some of them, as entered on the roll, will be found in the Appendix.

Stats. of
Ireland,
2 Eliz.
ch. 1. ch. 2.

See Appen-
dix, No.
VIII.

The enforcement of the above two statutes was but a pretence for carrying into effect the real design of Government. On depriving the mayors and leading persons, others of known pliancy were substituted in their places, and these persons willingly resigned the rights and liberties of their towns into the hands of the King, and took out new charters of incorporation. Here the main and principal object of the

Charters of
Wexford,
Limerick,
Drogheda,
Ross, &c.
&c. time of
James I.

Crown was accomplished. New charters were soon issued to the several ancient towns, and these were so framed that the great body of the inhabitants were left little interest in municipal privileges. Particular individuals were expressly named in those new charters to fill the places of Mayors, Sheriffs, Recorders, &c. and even the Burgesses most usually were mentioned by special name, and their number now became limited: to these persons was given the power of electing or appointing their successors, of making bye-laws for the government of such places, and, on the whole, the people or inhabitants were in a great measure deprived of that legitimate share in their own government which, under the original constitution of those boroughs, they had enjoyed for more than four hundred years.

Essex's
State
Letters.

Commenced by the Crown, the system of exclusion was closely pursued by the persons thus newly placed in corporate authority, who, from that period, daily, though gradually, severed themselves and their interests from those of the inhabitants at large; still, as we find in the Earl of Essex's Report, they were unable wholly to extinguish the rights of the free men or inhabitants, who continued, though restricted by Test oaths from higher offices, pretty numerous as free men until the year 1654, when the Republican army obtained possession of all such towns. The events that followed the Restoration of Charles the Second in Ireland are well known. The resistance offered by many of those places to the Cromwellian power did them the highest honour; and amongst the last places that yielded to the Usurped Powers was one of the ancient towns, as King Charles afterwards acknowledged in his letters; yet no sooner had he been restored than the Lords Justices issued a Proclamation on the 18th May 1661, confirming to every one holding by grant or contract with the *late Usurped Powers*, all their lands and possessions, as well in towns as elsewhere, during a given period. Under this proclamation, when Parliament was called for the general arrangement of landed estates and other public interests, which had been completely subverted by so many years civil wars, the Commonwealth soldiery, who under Crom-

Chief Rem.
Roll Dub.
13 Cha. II.

well got possession of the walled towns, were able to return an overwhelming majority of members to that Parliament which passed the Acts of Settlement and Explanation. In consequence, the permanency of their interest was provided for, and the estates, rights, and liberties of those corporate establishments were vested in a body of men who had but recently settled in the kingdom. The injustice experienced afterwards in this respect became a subject of enquiry with the Irish Government; and the Earl of Essex, about the year 1675, when Lord Lieutenant of Ireland, made a Report on the state of those towns: in it his Lordship states the fact of the exclusion of the majority of those who were entitled to their Freedom; and notices the King's mandate issued on the 22d of May 1661, declaring that the respective former *inhabitants, natives*, and freemen, and such as had right to be freemen, in any of the cities or towns, should be forthwith restored; as also his Majesty's letters dated the 26th of February 1671, to the same effect, on behalf of all the ancient freemen; neither of which declarations of the Royal wish, as his Lordship reports, had been complied with; and though he, on the whole, acknowledges that this unjust exclusion had been persevered in, and that there was no legal bar to the re-admission of those who had been excluded, yet his Lordship and advisers, wavering as the Irish Government has ever been between justice and expediency, procured no practical or effectual change in that system, the evils and injustice of which they seemed to deplore.

Still we cannot close the reign of Charles the Second without adverting to one measure which was designed to break down the spirit of exclusion then prevailing in the corporations of Ireland, and was contemplated as a revival, under the most adverse circumstances, of the ancient constitution of boroughs. It appears that by the Act of Explanation power was given to the Lord Lieutenant and Council, within seven years, to make rules, orders, and directions for the better regulation of all cities, walled towns, and corporations, both new and old, and for the electing of magistrates, and such other purposes as are therein mentioned. In pursuance

Statutes of
Ireland, 17
18, Ch. II.
ch. 2.

Statutes of
Ireland,
vol. I.

of this power, the Lord Lieutenant and Council, in the year 1672, issued what are called the *New Rules*, as well for those cities and towns therein specially named, as for all other places not therein specified; and by these Rules it was ordered that for ever thereafter the names of the persons elected to serve the offices of Mayor, Sheriff, Recorder, or Town Clerk of Dublin, Limerick, Galway, and of the several other towns therein mentioned, should be certified to the Lord Lieutenant and Council for their approbation; and if the persons so elected should not be approved of, then those towns should proceed to a new election or elections, until such persons were chosen as met the approbation of the Lord Lieutenant and Council: that no person should be capable of acting as Mayor, Recorder, Sheriff, Treasurer, Alderman, Town Clerk, Common Council Man, or Master or Warden, until he took the Oath of Supremacy, except those only with whose taking said oath the Lord Lieutenant should think fit, by writing under his or their hand, by name to dispense: but the most important part of those New Rules, and indeed that part which went to a renewal of the ancient law of the land, was a provision that all foreigners, strangers and aliens being merchants, or skilled in any mystery, craft, or trade, then or thereafter *residing* and *inhabiting* within those cities or towns, should, on paying down twenty shillings as a fine to the Lord Mayor and Common Council, or other persons authorized to admit and make freemen in the said city, be admitted a freeman of said city, and, if they desired, into any guild, brotherhood, &c. therein, during their residence and their family's *constant inhabiting* within this kingdom; and any persons refusing to admit them so applying for their freedom, should, upon complaint and due proof of such refusal before the Lord Lieutenant and Council of this kingdom, be disfranchised and rendered from thenceforth incapable of being a freeman or member of said city: and further, that on such refusal, those foreigners, strangers and aliens should, upon tendering twenty shillings and taking the Oath of Allegiance before any Justice of the Peace in the next county, by virtue thereof be deemed, reputed, and taken,

to all intents and purposes, to be freemen or members of said city or town, and of the brotherhood, society or fellowship of any trade, &c.

Thus the ancient law of Boroughs was restored to a certain extent, and notwithstanding the system of exclusion previously attempted, every trader in the towns of Ireland, on the long established and original principle of inhabitation, was able, under those Rules and Orders, to become a freeman in any Corporation, though still, unless dispensed with, he could not fill the higher corporate offices unless by taking the Oath of Supremacy, and giving those other tests which then were required. These Rules and Orders are in full force at the present day, and every trader, of every religious persuasion, can now become a free man of the Corporation of that town in which he resides, as has long been held by the most experienced members of the Bar in both countries, and as was lately determined in the case of the Wexford petition, already alluded to in a former chapter.

But, after the Revolution of 1688, the spirit and intention of those Rules were in this respect wholly forgotten: the same system of exclusion which was observed in the early part of King Charles's reign was revived and quickened, owing to the unsuccessful attempts made by King James the Second against his opponents in corporate towns;—and when exalted members of the gravest professions, prelates, judges, and privy counsellors, became at that time the most active and most violent politicians, holding forth authorities for the deposition of kings, and promulgating undeserved slanders on the characters of those who were excluded from their former rights, we must admit there was but little to be expected by seeking the benefit of the Rules and Orders, or bringing in any other shape the rights of the excluded before such tribunals as then existed. In consequence of this, and a certain inviolability or sacredness, as it were, which has been thrown round corporate establishments in Ireland since the reign of William the Third, the inhabitants in general of towns have continued wholly unconnected in interests or feelings with those few individuals who monopolized to themselves all cor-

See Hibernia Anglicana by Lord Chancellor Cox. Lond. 1692, Stat. of the Prot. by Abp. King, Lond. 1691. Sermon in MS. by A. Dopping, Bishop of Kildare, Library, Lambeth Palace.

porate authority; and it may be said that at this day the inhabitants are as much excluded from the privileges originally conferred on their ancestors, and enjoyed by them for nearly five hundred years, as they were at the restoration of Charles the Second, when, through the concurrence of force and fraud, the present system of exclusion may be said to have commenced.

One remnant of their ancient rights, however, is still preserved by the inhabitants of several towns; this is the right of voting for the election of members for Parliament: and as the present exercise of this right, after a possession of nearly six hundred years in the inhabitants, is another proof that anciently such liberties were enjoyed through inhabitation alone, and as in other respects it is a subject of considerable importance, we must reserve its consideration for the ensuing chapter.

CHAPTER IV.

THE evidences cited in the foregoing Chapter clearly establish that under the original constitution of the ancient towns of Ireland it was intended all inhabitant householders or occupiers of tenements should enjoy the immunities, liberties, and privileges conferred on those places; and further, that they the inhabitant householders did accordingly enjoy them in common for several centuries after their first establishment in the country.*

While thus the privileges of towns were enjoyed on the principle of inhabitation, the Crown, at some period in the thirteenth century, required them, as a duty or service, to send representatives to the public councils and parliaments of the Kingdom. The exact period when this service was first required, it is not now easy to ascertain; but, as soon as the year 1244, we find the King ordering a council of all the *discreet* burgesses of Ireland to be convoked for legislative

Close Roll,
T. L.
28 Hen. III.
See before
Chap. II.

* Mr. Petty and other writers, who warmly contended for the antiquity of the Commons House of England, having met with some records showing a Legislative power in the Commons of Ireland in the reign of Henry the Third, argued on the presumption, that as the *platform* had been taken from the former Country, so the Commons must also have had share in the Legislature of England at that period. But Parliamentary history has since undergone minute investigation, and the result has left this presumption wholly unsupported. The origin of Legislative functions in the Commons of Ireland must be considered with reference to the situation of, and the trust reposed in, those who settled in the country, their distance from the control of the Crown, and other circumstances, which are not only too numerous, but also wholly unnecessary for enquiry here, where they may be safely dispensed with in treating of our present subject.

purposes. In and before the year 1300, we find two, three, and four representatives for each town ordered to be chosen; and in the writs of election of the year 1310, the number of representatives required from each place was settled, and two, the number then fixed, continued to be returned from that time until the year 1800.

With reference to the description of persons by whom the representatives of towns were then chosen, it is stated in the record of the Parliament held at Dublin in the year 1299 or 1300, that writs issued commanding the Prelates and Magnates there to come in their proper persons, and the *Communities of Counties* by two, three or four, for this purpose *by them chosen*, and special power having as if all were present; and *likewise the Communities of Cities and Boroughs by two or three, &c.* In the record of the Parliament held at Kilkenny in the year 1300, we find the King commanded all his Sheriffs that they should cause to come there on that day, out of every County two Knights, and out of every City or Borough two Citizens or Burgesses, having full power on the part of the *community* of the said Counties, Cities, or Boroughs. For the Parliaments held in the 48th Edward III., 1st, 3rd, 4th, and 5th Ric. II., we have the writs then issued, and they order the Sheriffs that, with the common assent of *the Community of their* Counties, they should cause to be elected two Knights, &c.; and at the same time writs issued to the Mayors and Bailiffs of Cities and Towns, ordering them, with the *common assent of the Community* of such Cities and Towns, to cause to be elected two Citizens, &c. These are amongst the earliest notices we have relating to the elections of Citizens and Burgesses; and the language used in such records has been preserved, with scarcely any variation, in similar instruments down to the present day.

That this word "*Communitas*" was used in its obvious and extensive sense, as comprising all those inhabitants who enjoyed the privileges and bore the charges of the towns, might be inferred from the following circumstances:—

When first the representatives of cities and towns were

See Appen-
dix No. IV.
and Fac-
simile.

Parliamen-
tary Writs
Chief Rem.
Roll Dub.
3, 4 Ed. II.

See Fac-
simile of
Writs in
Chan. Roll.
4 Ric. II.

¶ Nos districte salutem Quia quibusdam de ecclesia supradicta in ordinando et tunc sic tibi
parum? sicut minus? per de consensu vestro cum eis alio modo de pbaris &c.
et legemulabz omnes cum

Writ for Election in Counties, Chancery Roll, Dublin. 4th Rich. II.

¶ Quia preallius tunc deo districte salutem Quia quibusdam de ecclesia supradicta
in ordinando et de ecclesia supradicta sicut minus? per de consensu vestro
tunc de pbaris &c. alio modo de pbaris &c. omnes cum

Writ for Election in Cities, Chancery Roll, Dublin. 4th Rich. II.

called to the Legislature of England, it was declared by the King, who extended this right to them, that it was a most just law,—*ut quod omnes tangit ab omnibus approbetur*.

Writ of
Summons,
23 Ed. I.

These are the words which he introduced into the writs of summons, and it would take much from the character and authenticity of solemn legal instruments to suppose that the close Communities, or Borough system, of the present day was contemplated by the King, when he thus publicly declared that what concerns all, *by ALL should be approved*.

An argument of the same nature might be drawn from the fact that the members chosen by the Communities were paid wages by the *inhabitants* of the towns; and this salutary principle, which never should have been discontinued, prevailed from the earliest period down to the seventeenth century.

Commons
Journals,
vol. 1, p.
46, 49, 65,
&c.

In the early Parliaments general grants were seldom made, but each county, city, and town cautiously and considerably made a separate grant of subsidies and aids in proportion to the means of each place: an instance of this, and of the difficulty of obtaining their supplies, will be seen in the Parliamentary proceedings of the year 1300. But in the reigns of Edward the Third and Richard the Second there are frequent entries on the Rolls of members taking instructions from their constituents, and being enjoined (*injuncti fuerunt*) not to grant any subsidy or talliage at the ensuing Parliament. With such numerous proofs, therefore, of the rigid caution then shown as to the power of voting money, it is only reasonable to conclude that those who exercised that right were chosen by the majority of the inhabitants by whom such public assessments were to be paid.

See Appen-
dix, No. IV.

But let us turn to more specific proofs. In the numerous charters and grants now enrolled in the Tower, by which the Crown conferred several rights and liberties on cities and towns in Ireland, from the reign of King John to the period when the representation of cities and towns was established, those rights and liberties are granted to the *Citizens* or to the *Burgesses*, and frequently to the *Men (Hominibus)* of such places; and from this fact it may be fairly concluded that

there was not then existing in those towns, or known to the law, any select body of persons in whom exclusively the management and conduct of their property and local affairs were vested.

Blk. Bk.
Archdio.
Dub.

The same fact is also shown from the language of such deeds as were executed by those towns within the time just specified. In the deed between the Archbishop of Dublin and the City the words are, Henry Archbishop of Dublin of the one part, and the Citizens of Dublin, of their common consent, of the other part,—*Cives Dublin de communi ipsorum consensu ex alterâ*; and to this effect are several other instruments, which negative the presumption that the property or liberties of those towns were in select communities.

Ch. Rem.
Roll, Dub.
28 Ed. I.

In the Exchequer Roll of the year 1300, and in many other Court Rolls both before and after that period, we find the word "Communitas" set down with reference to Tullagh Rath, Athmean, and other inconsiderable villages, which never at any period were Parliamentary boroughs, or had within them a corporate body by charter or prescription; and in this way it may be perceived that the word was used in its extensive signification when introduced into records of that age.

Inquisitions
Co. Tipp.
time of Eliz.
Ch. Rem.
Off. Dub.

The word "Communitas" indeed was used invariably in Ireland for all inhabitants of towns other than the persons whom they elected mayors, provosts, sovereigns, or bailiffs. This circumstance is evident from an inquisition held so late as the reign of Elizabeth before the Escheator and Feodary General, which finds that the town or city of Cashel was an ancient Borough or Corporation, consisting of a Provost and his brethren, and of the *Plebeis sive Communitate*, having and using ancient privileges, &c. The same words are also set forth in inquisitions relating to other towns.

Ancient
Writs Ha-
nap. Off.
Dublin.

But the King's writ of election bears strong evidence that no select communities existed in those towns other than communities of the inhabitants in general, and that they were the persons originally electing. In those writs (which still retain their ancient form) the officer is commanded, that having made proclamation within the town of the day and place of holding Parliament, he should cause to be elected two Burgesses of the aforesaid, freely and indifferently *by those*

who should be *present* at such proclamation,—“libere et indifferenter per illos qui proclamationi illi interfuerint.” Here there is no appearance of any select body, and this precept to the officer affords an useful illustration of the word “*Communitas*” as appearing in the writ of election.

The writs of summons also bear internal evidence that this term, in whatever acceptation some may now be willing to take it, was not restricted to any particular or select class of persons within cities and towns. In these writs the officers are ordered to cause to be elected, with the *assent of the Community of the County*, two Knights, and with the *assent of the Community of the City or Town*, two Citizens or Burgesses, &c. Now, from the earliest period, all freeholders in the counties of Ireland exercised the elective franchise, and so enjoyed the right of election until the sixteenth century, when a freehold of forty shillings yearly value was by statute made a necessary qualification for voting; and as there is no select community or corporate body known amongst the freeholders of counties, and as two opposite meanings cannot be assigned to one and the same word, particularly in one and the same record, so it becomes clear that the word “*Communitas*” was applied in those writs to cities and towns in its extensive and natural signification.

“Quod omnes Liberi Tenentes dicti Comitatus essent apud Dublin die Lune,” &c. Writ 49 Ed. III. T. L.

It will however be shown that the word *Community* was never intended to bear that peculiar construction which the tortuous encroachments and usurpations of the last hundred and-fifty years seem to have fastened on it.

By the statute of the second year of Henry the Seventh, mentioned in the preceding Chapter, that part of the County of Dublin called Little Cabragh was made part of the City, and its inhabitants and landholders were vested with all the liberties and franchises enjoyed by the citizens and denizens of Dublin, and were exempted from the jurisdiction of all officers of the county. In consequence of this statute, the inhabitants or landholders of that place formerly called Little Cabragh became electors in the City of Dublin, and are now part of the *Community* mentioned in the several writs of election; and this, notwithstanding that there is no

clause in the statute making them part of any special community within the city, but merely because their lands or tenements were made part of the city, and so they became citizens, and entitled to the elective franchise as one of the privileges enjoyed in the reign of Henry the Seventh by the citizens of Dublin.

See Appen-
dix No. V.
and VI.

Another Act was passed for a similar purpose, as to a portion of the County of Louth, which was thereby annexed to the Town of Drogheda; and both those statutes, as valuable illustrations of the mode of acquiring the elective franchise and other privileges in corporate towns in the fifteenth century, will be found at length in the Appendix.

Stats. of Ire-
land, 10
Hen. VII.
Stats. of
England,
23 Hen. VI.
ch. 5.

In about eight years after the above, a statute was passed in a Parliament held before Sir Edward Poynings, and the English Act of Henry the Sixth, whereby it was ordained that elections of Members should in Cities be *by citizens*, and in Boroughs *by the burgesses*, was re-enacted and made of force in Ireland. It has already been shown that the occupation of a tenement in the ancient cities and towns of Ireland, with contribution to all common charges, gave its possessor the rights of a citizen or burgess, and that as citizens and burgesses, all such inhabitant householders or occupiers of tenements were recognised and called at the period we now write of: it is therefore useful to point out the above English statute as directly confirmatory of what has been asserted, that the elective franchise was enjoyed in common by all such inhabitants in the cities and towns of Ireland.*

But if any confirmation were required of the opinion maintained in the foregoing pages, it would be fully supplied by an Act passed in the Irish Parliament in the 33rd year of the reign

* In the Commons Journals vol. i. p. 46, &c. the English Election Acts of Henry V. and VI. are cited, and the above statute of 23 Hen. VI. may be seen in the Compendium of English Acts of force in Ireland, pursuant to the 10th Henry VII. as published in 1617 by John Franckton, King's Printer in Dublin. The words used in pleading such English Acts in the Irish Courts were, "which Act of Parliament was ordained, established, and confirmed within this Land of Ireland, by force of an Act of a Parliament held at Drogheda, &c. before Edward Poynings, then Deputy," &c. Ch. Rem. Rot. Dub. 23 Hen. VIII. &c.

of King Henry the Eighth. In this statute it is provided and enacted that every knight, citizen or burgess for every Parliament thereafter to be summoned should be resident and dwelling within the counties, cities and towns, "and SHALL BE CHOSEN AND ELECTED BY THE GREATER NUMBER OF THE INHABITANTS OF THE SAID COUNTIES, CITIES AND TOWNS, being present at the said elections by virtue of the King's writ for that intent addressed;" and that every elector within counties should have lands or tenements at least to the yearly value of 40s. above all charges; that every inhabitant electing to the contrary shall forfeit 100s.; that every officer returning any knight, citizen or burgess otherwise chosen or elected shall forfeit 100l.; and that every knight, citizen or burgess taking upon him to be knight, citizen or burgess, and not chosen in the manner aforementioned, shall forfeit 100l.

Statutes of
Ireland,
33 Hen.
VIII.
s. 2, ch. 1.

As the Act 10th Hen. VII. already cited, prohibiting any person to be alderman, juror, or freeman, unless those who had been apprentices or continually inhabiting within towns was but a restoration of the common law and usage so long previously prevailing in those places; so this statute of Henry the Eighth was but the revival and enforcement of what had been the law of election in the towns of Ireland from the earliest period. Here therefore in the statute law of the 16th century we find the best explanation of the word "Communitas" as mentioned in the writs of election both before and after that time, and this statute thus puts beyond all doubt what has been maintained in the preceding pages, that the right of election was enjoyed in common with all other privileges by the inhabitants of the ancient towns of Ireland.

The law so enacted remained the law of election in Ireland, and under its provisions the members for counties, &c. were returned for a period of two hundred and seventy-seven years, at the end of which time, viz. in the year 1829, an Act was passed raising the qualification of freeholders in counties from 40s. to 10l. But this Act of the late Parliament, which fully recognises the statute of Henry the Eighth as the existing law of election in Ireland, has not repealed or altered its provisions for elections in cities and towns.

Statutes
Un. King-
dom, 10
Geo. IV.
ch. 8.

The violences done by the officers of James the First to the ancient towns of Ireland, have been alluded to in the preceding chapter; in consequence of such unjustifiable proceedings, the right of election, then legally vested in the inhabitants amongst their other privileges, was in several places usurped and exclusively monopolized by the select few, who sought new charters from the Crown, and thus laid the foundation of a most vexatious system of injustice and exclusion. The new charters then granted, aided by the introduction of test oaths, left the inhabitants little interest in the local government of their towns; and the events that followed in the reign of Charles the Second, as already mentioned, threw the right of election in cities and towns, with all other local privileges, into the possession of the most limited and circumscribed *communities*, if so they may be called. The inhabitants generally, being deprived of the right of election, were no longer chargeable with the consequent expense; and it was under such circumstances that, in the reign of Charles the Second, wages ceased to be paid to the representatives of cities and towns in Ireland.

Statutes 13,
14 Chas. II.

Thus the system of exclusion may be said to have been completed in the reign of Charles the Second; and though it was decidedly in contravention of the laws and long established usages of the land, yet when we find the Crown unable to obtain restitution of the liberties of the ancient inhabitants even as free men, and know that the extension of rights contemplated by the Act and New Rules of that reign was frustrated by the influence of the usurping party, such triumphs over law and long established rights must cease to excite surprise.

Statutes of
Ireland, 2
Anne ch. 6,
1 Geo. II.
ch. 9.

Many statutory provisions were afterwards made by the influence of this class of persons to restrict popular liberties and secure to themselves exclusively the right of election. Amongst these, the statutes since repealed, by which the elective franchise in cities and towns was wrested from all but members of the established religion, may serve as an instance. But the principal Acts passed with that view, and now remaining on the Statute Book, seemed to be two enacted in the reigns of

George the Second and George the Third. By the first of these it appears that, in the year 1748, when this law was made, "*many suits and controversies*" arose in Ireland in consequence of certain Towns Corporate and Boroughs having, for want of Protestant inhabitants, elected into the offices of Burgesses and other offices, persons not inhabiting, or who could not be resident in the precincts thereof, and that the legality of such elections was questioned. Here we have proof that the Law of Inhabitation, enforced by the statutes of 10th Hen. VII. ch. 7, and 33rd Hen. VIII. had continued to prevail in Ireland to the middle of the last century, and that to alter it a special enactment became necessary; therefore it was enacted, it being still impracticable in most of the said towns corporate and boroughs to find Protestant inhabitants, that no person, duly elected into said offices or franchises in such towns not being a city, shall be ousted of such office, or be sued for or by reason only of his not being an inhabitant of or resident within such town corporate or borough at the time of his election, but that every person in other respects duly elected and admitted into any of said offices, may be able to hold same as fully as if they had been resident at the time of election. The other Act was passed in the reign of George the Third; and it was thereby enacted that six years' possession of any corporate office or franchise should bar all informations by Quo Warranto brought against the person exercising such office or franchise for that period; and that a similar possession of six years in the officer who appointed or swore him in, should obviate any objection on the ground of any defect in such officer's title.

Statutes of
Ireland,
38 Geo. III.
ch. 2.

The above are perhaps the principal statutes by which alterations in the constitution of Boroughs and ancient Towns of Ireland have been attempted, and it may be seen that such innovations are of an extremely recent date. Notwithstanding however those statutes, there is no enactment to take away the Common Law right so long used and enjoyed by the inhabitants of the boroughs, and which first became suspended under circumstances of fraud and violence: neither has there been such a repeal of that statute, 10th Hen. VII.

chap. 7, as would prevent its enforcement against non-resident free men and corporations to a very considerable extent: and it is held that the officers returning knights, citizens, or burgesses, as well as any members taking on them to be knights, citizens, or burgesses, who were not *chosen and elected by the greater number of the inhabitants* of such counties, cities, and towns, are at this day liable to all the penalties set forth in the statute of the 33rd year of King Henry the Eighth.

It only remains now to advert to one fact which determines the import of the word "Communitas," as used in Parliamentary documents. Already sufficient has been adduced to remove any doubts existing on this subject; and it should not again be introduced here were it not that this fact establishes that the theories of Messrs. Prynne and Brady as to the restricted meaning of the word "Communitas" are inapplicable, not only to the towns of Ireland, but even to the ancient towns of England, if it be agreed that the mode of election and the constitution of boroughs in both countries had been originally the same.

It appears that in the seventeenth century, when the inhabitants of towns were originally excluded from corporate offices and privileges, there were many places, such as Dublin, Cork, Drogheda, Kilkenny, Limerick, Dungarvan, Waterford, &c. where the inhabitants were too numerous, and even under the existing circumstances too influential, to be suddenly deprived of all their ancient liberties. Owing to this circumstance, and perhaps aided by those who sought their suffrages—persons of station and rank, who were interested in preserving their rights thus far,—the elective franchise, which had from the thirteenth century been enjoyed in all ancient towns by every person holding a tenement, was left in the enjoyment of the inhabitants as theretofore; and after those inhabitants were in every other respect excluded from corporate privileges by new charters and test oaths, this their right of election was left undisturbed.

Hence, in Dublin, Waterford, Cork, Drogheda, Limerick, Dungarvan, Kilkenny, and other cities and towns, which,

being the first that returned members to the Legislature, are recognised by several documents as the most ancient and best constituted towns in the country, and which are mentioned in divers charters as models whereby the liberties of other places were to be regulated and enjoyed, the freeholders have been from time immemorial, and are at the present day, in possession of the right of election, and as such have been and are parties specially named in the indentures executed between the electors and the returning officers. As the fact cannot be too plainly or satisfactorily shown, an abstract of the form of indentures used in those cities and towns has been taken from the originals in the Hanaper Office, and is as follows:—" This Indenture, made in full and special County Court holden at the Sessions House, Green-street, in the County of the City of Dublin, and for the said County of the City of Dublin, on the 6th day of May, in the first year of the reign of our Sovereign Lord William the Fourth, &c. between J. M. and G. H. Esqrs. Sheriffs of the County of the City of Dublin, of the one part, and John David Latouche, PATRICK CURTIS, WILLIAM MURPHY, Nicholas M. Mansfield, and many other persons, Free Men and FREE HOLDERS of the County of the City of Dublin, of the other part, witnesseth that Proclamation being duly made, and the said parties to these presents, together with the major part of the Free Men and FREE HOLDERS, ELECTORS for the said County of the said City, present in full Court on the day of the date hereof, by virtue, &c. have in the said County Court, by unanimous assent and consent, freely and indifferently elected and chosen two citizens, &c. to wit, *Robert Harty* and *Louis Perrin*, Esquires, to be Citizens to the said Parliament to be holden, &c. of the COMMONALTY of the said County of the said City, giving and granting unto the aforesaid Citizens full and sufficient power, for THEMSELVES and the COMMONALTY of the said County of the said City, to do and consent to those things, &c. In witness whereof, the parties to these presents have interchangeably put their hands and seals, the day, year, and place above written." In a similar manner the

Original
Indentures
Hanaper
Office,
Dublin.

Free Holders are electing and executing parties in the several indentures for Drogheda, Dungarvan, Limerick, Kilkenny, Cork, Galway, Waterford, &c.

Now, there are few circumstances more important than this: the Free Holders in such towns are for the most part persons wholly unconnected in any way with what are called the Corporations of those several places; and there is only one mode of accounting for that Community which in law, and indeed only in law, is supposed to exist between them.

The ancient as well as modern writs of election require Citizens and Burgesses to be elected by the *common consent* of the *Citizens* and *Burgesses* of the respective towns, with full powers for them and the *community* of such places, and it appears by the universal and *immemorial practice* of those ancient towns, that a large class of persons, forming no part of what are now exclusively considered to be the Corporations of those places, have been and are voters or electors on all such occasions; it becomes manifest therefore, that originally every inhabitant possessing a freehold within those places was one of the citizens or burgesses named in the writs of election; that as such, in right of that portion of the Frank Done of the soil which he enjoyed, such inhabitant was an elector, and that all those inhabitants, in the aggregate, formed the Community or Corporation of our ancient towns.

The long established and present usage known as to elections in Dublin, Waterford, Cork, Drogheda, Limerick, Dungarvan, Kilkenny, &c. leaves this fact indisputable, and proves clearly that the right of election, like all other privileges of towns, was vested originally in all such inhabitants as we have now described.

With this principle fully established, how melancholy is the contrast presented to our view by the Corporations of the nineteenth century! It will be seen in the Tabular Form which has been prepared on the present occasion, that in several of the towns of Ireland the right of electing those who are to dispose of the liberties and property of the country, is vested in so small a number as would convert calculation almost

See Tabu-
lar Form.

into absurdity: in Belfast for instance, with a population of 44,064 persons, the electors amount to no more than 13.

But the number of non-residents, as far as they could be ascertained from Parliamentary returns and other correct sources of information, may be estimated at about one-third of the actual electors; and it will be seen, on comparing this number with the Table, that the choice of representatives for the cities and towns of Ireland is enjoyed or exercised by no more than *one-fortieth* of the population, even as that population was estimated several years since.

It has been shown that this state of things was foreign to the original constitution of Boroughs, and was unknown for more than four hundred years, during which time that valuable right the Elective Franchise was open to all the inhabitants having tenements in each city and town: and viewing the public spirit, wealth, and intelligence possessed by the population of such places, and the sensitiveness with which they feel this privation, there can be no stronger case offered for one of those great Legislative exertions that have been so often heretofore made, but seldom if ever on grounds so equitable and just.

Names of the several CITIES and BOROUGHs in Ireland returning Members to Parliament; with the number of INHABITANTS in each, according to the Population Returns of 1821; and the number of ELECTORS, whether Resident or Non-resident, as same appear in the Parliamentary Returns of 19th May 1829, and 11th June 1830.

Names.	No. of Inhabitants.	No. of Electors, Resident & Non-resid.	Names.	No. of Inhabitants	No. of Electors, Resident & Non-resid.
Armagh	20,840	13	Enniskillen	12,251	15
Athlone.....	13,813	71	Galway	27,775	2,300
Bandonbridge ..	4,858	13	Kilkenny	23,230	350
Belfast	44,064	13	Kinsale	7,068	64
Carlow	8,935	13	Limerick	59,045	3,200
Carrickfergus ..	8,023	860	Lisburn.....	4,684	56
Cashel	6,458	26	Londonderry ..	16,971	650
Clonmel.....	16,149	105	Mallow	7,921	550
Coleraine	6,481	36	Newry Lordship	17,656	2,472
Cork	100,658	2,750	Portarlington ..	2,877	15
Downpatrick....	4,123	2,180	New Ross	4,475	32
Drogheda	18,118	1,143	Sligo	9,283	13
Dublin	185,881	5,000	Tralee	7,547	13
Ditto University	..	96	Waterford.....	28,679	1,286
Dundalk	10,342	32	Wexford	10,720	168
Dungannon	3,243	12	Youghall	8,969	242
Dungarvan	5,105	1,708			
Ennis	6,701	13	Total	712,043	25,510

OBSERVATIONS.—In the Parliamentary Returns, the number of persons voting in Galway is not given, neither can the number of such be accurately ascertained as to Dublin; the number of Electors, therefore, in those two places is supplied from good local information. The order of the House also as to the number of Non-resident Voters was so imperfectly complied with by the Corporate Officers, that full and satisfactory information on the subject cannot be obtained: if, however, any calculation can be formed from the few and imperfect returns then made, the Non-residents may perhaps be averaged at one-fourth of the whole, and thus the real number of Voters in all the Cities and Towns of Ireland would be little better than 18,000. It is necessary farther to observe that the Population of Towns above given is certainly rated much below the true amount.

APPENDIX.

No. I.

WRITS ISSUED BY KING JOHN IN THE YEAR 1204 TO THE PRELATES,
PEERS, KNIGHTS, *Citizens*, MERCHANTS, *Burgesses*, AND *Free-*
holders OF IRELAND, FOR A GRANT OF AN AID OR SUBSIDY.

Rex &c. Archiepiscopis Episcopis Abbatibus Prioribus
Archidiaconis et universo Clero per Hiberniam constitutis
salutem: Satis nôstis sicut et totus mundus qualiter Rex
Franciæ contra Deum et rationem et contra Cartam suam et
juramentum nos warrare et exheridationem nostram querere
non cessat; Nos autem propter hoc venimus in Angliam
gratia Dei sani et incolumes, ubi omnes de regno Angliæ nos
honorifice receperunt sicut Dominum, qui liberaliter et be-
neigne et habita consideratione ad urgentissimum negotium
nostrum nobis efficax faciunt Auxilium tam in veniendo cor-
poraliter in servitium nostrum in Normandiam quam de
Militibus et Pecunia. Quia iĝ instat necessitas q̄ nunquam
nobis major emersit aut emergere poterit, Vos *non consuetu-*
dinarie sed amabiliter rogamus, quatinus sicut de vobis con-
fidimus et sicut nos et honorem nostrum diligitis, EFFICAX nobis
AUXILIUM *faciatis* in hoc necessitatis nostre articulo, sicut
dilecti et fideles nostri Justiciarius Hiberniæ Walterus de
Lacy Archidiaconus Stafford et alii nuncii nostri cum eis ad
vos venientes vobis dicent ex parte nostra, vel aliqui ex illis
si omnes interesse non possint, et tamen inde facientes quod
vobis perpetui teneamur obnoxiores et quod debeamur vos
merito exaudire in negotiis vestris cum nos requisieritis. Et
certissime sciatis quod nunquam nobis ab illo Auxilium fieri
postulabimus qui nobis in hac tanta necessitate auxilium de-
negabit. Teste meipso apud Nottingham 10 die Februarii.

Chart.Roll,
Tower,
5 John,
m.15,dorso.

Sub eadem forma scribitur Comitibus Baronibus Justiciariis Vicecomitibus MILITIBUS CIVIBUS MERCATORIBUS BURGENSIBUS et *libere* TENENTIBUS et omnibus aliis fidelibus suis per Hiberniam constitutis.

No. II.

MANDATE ISSUED IN THE YEAR 1222 TO PREVENT THE DIMINUTION OF CUSTOMS IN TOWNS WHERE FOREIGNERS, THOUGH NOT RESIDENT, TOOK MESSUAGES AND PLACES.

Close Roll,
Tower,
6 Hen. III.
m. 10.

Rex Henrico Dublin Archiepiscopo et Justiciario Hiberniæ Salutem. Datum est Nobis intelligi quod quidam *Homines Forinseci* qui NON MANENT in *Civitatibus* nec in *bonis Villis* nostris Hiberniæ *loca recipiunt* et *messigia* in Civitate nostra *Waterford* et *Limerick* et *aliis bonis Villis* nostris propter quod *Consuetudo* earundem Villarum *diminuitur* et *deterioratur* ad dampnum nostrum et dispendium prædictarum Villarum. Et ideo Vobis mandamus quod de cetero in prædictis Villis et Civitatibus nostris *loca* et *messigia* modo prædicto ad detrimentum nostrum et Villarum prædictarum ab aliquo capi non permittatis. Teste Huberto de Burgo apud Westmonasterium 17 die Maii.

No. III.

ROYAL MANDATE OR DECLARATION OF LAW MADE ON 18th JULY, 1222, THAT NO PERSONS SHOULD HAVE FREEDOM IN WATERFORD OR ELSEWHERE BY REASON OF LANDS WHICH THEY TOOK AND HELD THERE, UNLESS THEY BE "CUBANTES ET LEVANTES" IN SUCH PLACE, AND AT LOT AND SCOT IN COMMON WITH THE BURGESSES THERE RESIDING.

Close Roll,
Tower,
6 Hen. III.
m. 6.

Rex Henrico Dublin Archiepiscopo Justiciario suo Hiberniæ Salutem &c. Mandamus et Vobis quod non permittatis Naves applicare vel receptaculum habere in portu de Ross ad dampnum nostrum et Villæ nostræ de Waterford aliter quam solent tempore Domini Johannis Regis Patris nostri ante guerram motam inter Ipsum et Barones suos Angliæ. Nec permittatis aliquibus *quietanciam Thelonei vel aliarum*

*Consuetudinum habere in Villa Waterford vel alibi occasione terrarum quas ceperint et tenuerint in eadem Villa Waterford NISI SINT CUBANTES ET LEVANTES IN EADEM VILLA Waterford et AD LOTTUM ET AD SCOTTUM communiter cum Burgensibus nostris Waterford IBIDEM RESIDENTIBUS, &c. Teste Huberto de Burgo apud Turrim London 18 die Julij.**

No. IV.

PROCEEDINGS OF A GENERAL PARLIAMENT HELD IN THE 28th EDW. I.
AS TO A SUBSIDY VOTED FOR THE KING.

Subsidium Scocie.

Edwardus Dei grā Rex Anglię Dominus Hibernie & Dux Aquitañ Comitibus Baronibus Militibus et certis fidelibus suis per Terram Hibernie constitutis Salutem. Sciatis quod cum ad salvacōem Corone nostre Regie communemque Regni et t̃raꝝ ñraꝝ utilitatem jam ordināvimus et eciam pponamus esse in proximo Festo Nativitatis Bī Joñis Bap̃te apud Karliolum cum equis et armis & subsidio Magnatum & Procerum ñroꝝ ad pficiscend̃ exinde ad Rebellionem Scotoꝝ inimicoꝝ et rebelliū ñroꝝ cum Dei auxilio repmendam ad quod negociū comodius exequend̃ ṽro auxilio & subsidio indigemus dilcōs & fidei ñros Joñem Wogan Justiciarium ñrm et Mag̃rm Thoñm de Cantok Cancellarium ñrm Hiñ unacum Baronibꝫ de Scaccario Dublin assignavimus ad petend̃ & requirend̃ noīe ñro a voñ & quoñt ṽrm subsidium quod ad tam ardui negotii felicem consummacōem ac ñri et ṽri commodum et honorem videbitur oportunum et ad om̃ia alia & singla fač que pfati Justič Canč et Barones seu aliqui ex ip̃is quos ad hoc vacare contigerit sup pmissis & ea [] viderent facienda. In cujus rei testimonium has t̃ras ñras fieri fecimus patentes. T. meipso apud Glydam 18^o die Januañ Anno Regni ñri 28^o.

Chief Rem.
Roll, Dub.
28 Edw. I.

Mandavit & Consimilia B̃ria om̃ibꝫ Civitatibus & Burgis per totam Hiñ propter que Justič summoñ fecit Generale

* For a knowledge of the existence of the above important documents the Public are indebted to the research of that indefatigable and useful officer, Mr. T. D. Hardy, of the Record Office in the Tower.

Parliamentum apud Dublin in quindeñ Pasch̃, videt̃ quod *Prelati & Magn' omnes venirent ibi in propriis personis &c.* et qđ COMMUNITATES Comitatum per duos tres vel quatuor ad hoc per ipsos electos & specialem potestatem habentes ac si om̃es fuissent presentes, & similiter COMMUNITATES CIVITATUM & BURGURUM per duos vel tres &c.

Set Justiĉ ante Parliamentum illud decrevit alloqui Majores & Probiores Homines Civitatum & Burgoꝝ occone predicti subsidij.

Et primo venit apud Drogheda sciſt in vigiſ Dominice in Ramis Palm̃ ubi porrectis Litteris Dñi Regis Majori & Communitati Burgi illius p ipsum Dominum Regem directis et habito cum eis super hiis diligenti tractatu pđci Major Balli et Communitas ex utraque parte aque ad promovend Benevolenciam Dñi Regis & gřam de Mercandisis que emerunt per Monetas inhibitas &c. optulerunt Domino Regi 260 marcas unde super villam ex parte Uriel 200 marĉ et super villam ex parte Mid 60 marĉ. Et exinde pfatus Justiĉ circumivit Civitates & Burgos &c. Et Major Balli & Communitas Civitatis Dubliñ concesserunt Domino Regi ad pđcm subsidium 200 marĉ. Et Coĩtas Burgi Comit̃s Norff de Ros concesserunt Domino Rĩ ad pđ subsid 40l. Et Civitas Regis Waterford 100 marĉ. Et Villata de Kilmydan in eod Comitatu 5l. Et Villata de Balimethan in eod Coĩ 100s. Et Villata de Stradbally in eod Coĩ quinque Centenas Piscium precij 100s. Et Villata de Dungarvan in eod Coĩ quindecim Centenas Piscium preĉ 15l. Et Coĩtas Civitatis Rĩ Lymeĩ 40 marĉ. Et Villata de Imelagh in eod Coĩ 20 marĉ. Et Civiĩ Rĩ de Corke 260 marĉ. Et Villata Gilbti fiſ Thome de Clare del Youghall in eod Coĩ 40l. et quinque Centenas Piscium precii 100s. Et Villata Archiepiscopi Cassel de Cassel in Coĩ Tip̃ 20l. Et Villata Otonis de Grandissono 12 maĩ. Et Villata Prioris de Athissel 6 maĩ. Et Villata Regis del Carrik 40s. Et Villata de Artfynan in eod Coĩ preſ Tenentes Hospitaĩ 40s. Et Villata del Nenagh 40s. Et Villata de Modrifny 1 marĉ. Et Villata de Thurles 40s. Et Villata de Fithard 10 marĉ. Et Villata de Moydisshel in eod Coĩ 40s. Et Burgenĩ de Kilkenny 40l.

Et postea ad p̄dēm Parliamentū vēn Magnates & Communitates in forma demandata & dīvsi de eis se excusantes a prestando subsidio pecierunt qđ Justiciā iret per Patrias et ipsi libenter forent in auxilium quod Communitates in propriis psonis suis concederent se prestare subsidium et ip̄i Magnates Proceř Prelať tunc cum eis contribuerent &c.

Et Justiĉ eis consenciens primo ivit apud Trym in Libertate Galfri de Geynevill ubi Communitas veniens & habito cum eis diligenť tractatu &c. concesserunt ad p̄dēm subsidium 200 marĉ. Et in Crastino Communitas Coĩ Midie veniens ibidem preť Croceas &c. concesserunt similiter &c. 200 marĉ. Et Coĩtas Croceař Midie preť Tenentes Abbatum de Mellefont & Dueleek & Archiep̄i Ardmaĉ 20l. Et Tenentes p̄dĉi Archiep̄i in Midia de teĩ de Arkagh 10 marĉ. Et Tenentes sui de Kilmoon 10 marĉ. Et Tenentes p̄dĉi Abb̄is de Mellifonte ex pte Midie 20l. Et Tenentes p̄dĉi Abb̄is Sĉe Marie de Dueleek 40s. Et Coĩtas Coĩ Loueth preť Tenentes p̄dĉoř Archiep̄oř & Abb̄is de Mellifonte conceřs &c. 80l. Et Tenentes p̄dĉi Archiepiscopi in p̄dĉo Coĩ 20l. Et Tenenť p̄d Abb̄is in eod Coĩ 20l. Et Coĩtas Coĩ Duř preť liřtates & Tenentes Religioř & Croĉ 100l. Et Tenentes Crocee Archiep̄i Dubliĩ cum forinsecis tenentibz de eod feodo apud Villam Sĉi Sepulchri Dubliĩ 100 marĉ. Et Tenenť Prioris Sĉi Joĩis extra novam Portam Dublin 40s. Et Tenentes Prioris Sĉe Trinitatis Dublin 100s. Et Tenenť Abb̄is Sĉe Marie Dubliĩ 40s. Et Tenentes Abbatisse del Hogges Dubliĩ 2 marĉ. Et Tenentes Croĉ Ferneĩ 12 marĉ. Et Tenentes Croc. Leighliĩ 6 marc. Et Tenentes Croĉ Osoř 20 mař. Et Coĩtas Libertať Weyř 80 marĉ. Et Tenenť de Offelmeth in Libertate Katherť preť Abb[] Et Tenentes Joĩis de Hastings in Obey in ead Liřtate 4 marĉ. Et Tenentes de Oharcon in [] Liřtate cum Villata de Katherť 10 marĉ. Et Tenentes de Fethard in eadem libertate 20 [] Et Tenenť de Odroon in ead libertate 20 marĉ. Et Tenentes libertatis Kilkeĩ 100l. Et Coĩtas Coĩ Kildař 100 marĉ. Et coĩtas Coĩ Waterford preť p̄dĉas Villatas 100l. Et coĩtas Coĩ Cork' preť villas mercatorias 200l. Et Coĩtas Coĩ Lymer preť villas m̄catoř 200 marĉ. Et coĩtas Coĩ

Typperař preř villas m̃cator̃ 200l. Et Villata de Athdare in Coĩ Lymer̃ 5 marč. Et Villata de Rathoel in eođ Coĩ 40s. Et Villata de Inskefry 40s. Et Villata de [] Et Villata de Cromoth in eođ Coĩ 5 marč. Et Villat̃ de Kilmeh [] Et Villata de Dermochin in eođ Coĩ 1 marč. Et villat̃ de Any 40s. Et Villata de Grene 20s. Et Villata de [] Et sciend̃ qđ Tenentes de Croceis Momonie concedunt quod ip̃i dabunt de suo q̃ntm̃ [] de libalitate sua & non occone alicujus teĩ incroceař & sub tali forma qđ non voč [] consuetudinem, alias &c. & eis conceditur.

No. V.

STATUTE PASSED IN THE 2ND OF HENRY THE SEVENTH, WHEREBY THE TOWNLAND OF BARNATTY, IN THE COUNTY OF LOUTH, WAS MADE PART OF THE TOWN AND FRANCHISES OF DROGHEDA, AND ALL THE DWELLERS, TENANTS, LAND-OCCUPIERS, AND RESIDENTIARIES OF SAID LAND MADE FREEMEN OF THE TOWN.

Chief Rem.
Roll, Dub.
Hen. VIII.

Item, at the supplication of John Netterville, of Dowth, Esq. that wheř the said besecher is seised in his demesne as of fee of all the meses lands & teĩtes with the appurřs in *Barnatty, in the shire of Louth*, oerwise called Uriell, the which meses landes and teĩtes with the appurřs ben wast by the grete oppřssion of coyne & livery & other diverse unportable charges, & so ben veray like to be, without a pvi-sion, congrue & convenient be at this tyme had & ordered upon the same by auctorite of this present Parliament: the preĩmes considered, & also respecte had howe the said meses lands and tenements wth the appurřs ben scituate neighe to the towne of Drogheda & franchises of the same, HIT IS ORDAINED ESTABLISHED & ENACTED by auctoritie of this present Parliament, that from this time forward the said messes lands & tenements with the appurřs in Barnaty forsaid be parcell of the said franchise of Droghda, & be reputed taken ajuged demed & had as parte & parcell of the franchises of Drogheda aforesaid, of & within the same franchises of Drogheda, & utterly discharged of the said shire of Louth

& the counte for ever, and *Dwellers, Tenautes, & Land-occupiers* of the forsaid landes & teñtes in Barnaty aforesaid, & *Recidenciaries of the same* & of every parte thereof, & every of them, from thensforward for ever by auctoritie forsaid have the *lib'ties, fredomes & franchises of Drogheda forsaid*, & them use & enjoy in all such manner & forme as the inhabitants of Manomore* beyng of & within the fraunchesie of the town of Drogheda forsaid hath used the same & enjoyed at any tyme as parcell of the same lands; and by the said auctoritie that all the said meses lands & tenñtes rents & services with the appurts in and of Barnaty forsaid or thereto belonging, & *all Tenantes, Land-occupiers, & Residenciaries of the same*, from thensforwarde be quyte free & utterly discharged of all manner charges, impositions, subsidies, taxes, tallages, coynes, & liveries had or to be had, grante or to be granted, used or be graunte to be used in any manner wyse within *the body of the Countie foresaid*, or within the Commonalties of the same; and by the same auctoritie that every *Sheriffe, Escheatoure, Coronere, Commr, Assessor, Collcor, Bailiff, & Serjeant, & every other Officer of the said County* for the tyme being to be, except Mayor, Sheriffs, & Officers of the said town of Drogheda, from thensforwarde be *utterly discharged for ever of doing & executing of any manner offices, execucions, & commandments within the said Barnaty, or any of the meses lands or tenem^{ts} belonging to same*, and if any Sheriff, Escheator, Coroner, Commr, Assessor, Collr, Baly, or Serjeant, or any other officer of said Counte, at any time hereafter, except the Mayor, Sheriffs, and Officers of said towne of Drogheda for the tyme being & to be, entre into said Barnaty, or into any of the meses lands & tenements into it belonging, to fulfill, execute, distreigne, or sommone, or attach, or any office to attempte or execute in any manner wise, to forfeate & lose unto the lord or owner of the said Barnaty for the tyme being & to be, & to the Mayor & Sheriffs of the said towne of Drogheda for the tyme & to be, 40*l.* as oft as any

* The landholders and residents in Manomore were when this Act was passed, as they now are, voters in the town of Drogheda.

of the said Sheriffs, Eschetors, Coroners, Comm^{rs}, Assessors, Collect^{rs}, Bailliffs, Serjeant, or any other officer of the said County Louth, otherwise Uriell, attempt the contrary of this Act or Ordinance, or any parte thereof in any manner wyse; & by the same auctoritie that all manner Collecto^{rs} of the Barony of Ferrard in the said Countie for the tym being & to be, have allowance upon their account of such sumes as concernen the said Barnaty, or the said meses lands & tenem^{ts} thereof, or in any manner belonging unto the same in any wise.

No. VI.

STATUTE PASSED IN THE 2ND OF HENRY THE SEVENTH, WHEREBY THE TOWNLAND OF LITTLE CABRAGH, IN THE COUNTY OF DUBLIN, WAS MADE PART OF THE CITY AND FRANCHISES OF DUBLIN, AND ALL THE INHABITANTS, TENANTS AND RESIDENTS OF SAID LAND, WERE MADE FREE MEN OF THE CITY.

Chief
Rememb.
Roll, Dub.
14 Hen.
VII.

Item al requisicon des Cōes que come la Vile de Litle Cabragh p^r ceo qest si prochien al Cite de Dyvelyn souent foitez si bien oue confluence du people al dit Cite come p divēs charges imposicons & subsidies de Counte de Dyvelyn la dit est issint charge q̄ les Tennautes del meme de vray necessite coment avoïdes la dite vile & issint est semlede estray voide quelle si fuit gaste & voide p similitude sroit une denne & succo^r pour Larons le quele voët estre g^{und} jeopardy & perill a tout le County de Dyvelyn & a toutz les gents resortautes al dite Cite si due provision en celle parte ne soit my provide. Ordeine est Enacte & Establies p auctorite dicest Parleament q̄ desore enaünt la dite vile de Lite Cabragh soit pcell del fraunchise del Cite de Dyvelyn & repete prise & ajuge de & dedeins la Franchesie del Cite de Dyvelyn & q̄ les ENHABITAUNTEZ del dit Vile de Cabragh & tous la t^{re} & TENAUNTS del mesme desore enaünt p^r touz jours eient & enjoient les lib^rtees franqez dones & franchises del Cite de Dyvelyn en tout tiell man^e & forme come lez Citizeins & denseins del mesme la Cite eient & enjoient. Et q̄ p mesme lautorite la dite vile de Litle Cabragh & touz t^{res} rentes & s^vices al mesme pteignūtez & toutz LES TENANTES & RESIDENTES,

del mesmes desore enaünt soient quites cleres & discharges de tous mañes charges impositions subsidies taxes & coynngs & lyverees ewes & de estre ewes en tout mañe grauntes uses ou de estre grauntes ou de estre uses deins le corps de Counte de Dyvelyn ou oue le Comunalte del mesme Et q̄ p mesme lautorite chescun Viscount de Counte de Dyvelyn & tous Coroners Commissioners Assessours Collectours Bailiffs & Serjaunts & tous aults Officers del dite Counte Dyvelyn p^r le temps esteauntz forprizes seulement lez Maire Bailiffs & Officers de Cite de Dyvelyn desore enaünt soient entment discharges del fesaunce & execution de ascun offices execucons & comaundements deins la dit vile de Lite Cabragh ou de deins les teñts ou ñres del mesme & si ascun Viscount Escheator Coroner Commissioner Assessor Collector Bailly ou Serjaunt ou ascun ault Officer del dit Counte de Dyvelyn ascun temps enapres forprize les Maire Bailiffs & Officers del dit Cite de Dyvelyn pour temps esteauntz entent en la dit vile de Lite Cabragh de performer executē distreigñ ou summonē ou attaches ou ascun offiċ attempñ faire ou execuñ en ascun maner de forfait^r & pdire & doier al Seigneur del dit Vile p^r le temps estauntes & a lez Maire & Bailiffs del dit Cite de Dyvelyn p^r le temps esteauntes 100*l*. si soñent come ascun de les dits Viscounts Eschetours Coroners Commissioners Assessours Collectors Bailly Serjauntes ou ascun aultre Officer del dit Cite Counte de Dyvelyn attempte le contrie dicest Act ou Ordinaunce.

No. VII.

COPY VERDICT AND PENALTIES AGAINST THE CORPORATION OF NAAS
FOR ADMITTING FREEMEN CONTRARY TO THE STATUTE 10 HENRY
VII. CHAP. 7.

Memord qđ pceptū fuit Viē Coñ Kildar p bre dne Regine nunc sub sigillo hujus Scđij dat̃ xiii^o die Maij ultimo pterito qđ non omitť &c. quin eam ingř & distř Nichm Walshe de Morton, Oliverū Woogan, Thomam Wogan, Jacobū Sainte Michell, Thomam Ewstace, Patriciū Saunders, Patriciū Tipper, Joñem Sherlock, Wiñmū Rochford, Joñem Fitz Gerratte,

Chief
Rememb.
Roll, Dub.
28 Eliz.

Johem Rocheford & Mauriciū Fitz Perce, p omēs terř &c. Ita &c. in octab Sçe Trinitę hoc 7mō Ad inquirend p dñā Regina de certis Articlis eis p Barones hujus Scēij Ex pte dñe dne Regine Administrand Ad quem diem Vič videłt Petrus Fitz Gerralde Miles retorñ bře pđčm unacū pannello de nōibus Juř & mandavit qđ Juř illi districti sunt p terř &c. unde exiř &c. Et Juratores exacti veneř hic in ppriis psonis suis & supinde pro dñā dñā Regina in Juratam illam Jurati existunt; Sup quo pcessu est ad capcōem Juř pđ p Juratores modo compentes Qui ad veritatem in pmissis dicendi electi & Jurati existunt dicunt sup Sacřm suū &c.

Qđ Ričus Bradshawe de le Nasse, Wiłlmus Walshe, Edwardus Ashe, Jacobus Sherlock, Edwardus Sherlock, & Pħus Graunte de le Nasse pđča, *admissi fuer' in lib'tat' & franchises' ville p'dc'e & facti fuer' liberi ho'es Juratores & fratres Sup'ioris ejusdem ville NUNQUAM EXISTEN' APPRENTICII IN EAD'M contra formam cujusd'm statuti de anno decimo nup' Regis Henrici septimi in h'mo'i casu nup' editi & provis' p'textu cujus Sup'ior' Burgens' & Co'itas Ville p'dc'e forisfecer' dcc^o marcas viz. p quolt psonař pđčař sic ut pfert' in lib'tat' admissio c' mč unde &c.*

No. VIII.

REPORT MADE ON 15TH JUNE 1606 BY SIR HENRY BRONKER, PRESIDENT OF MUNSTER, AS TO THE PENALTIES BY FINE, IMPRISONMENT, AND DEPRIVATION, IMPOSED ON THE PRINCIPAL MEMBERS OF THE ANCIENT BOROUGH TOWNS IN THE SOUTH OF IRELAND, FOR NOT TAKING THE OATH OF SUPREMACY SET FORTH IN THE 2ND OF ELIZABETH.

Exchequer
Rolls,
Dublin,
temp.
James I.

Whereas, at the first entrance of me the Lord President, into the Government of this Province, I did particularlie acquaint the *Magistrates, Chief Aldermen, and Burgesses of every Cittye and Corporate Towne heere*, with his Ma^{ties} expresse pleasure, so that they might not longer forbear to pforme the outward dutye his Highness expected from them for their orderlie repaire from time to time to the Holy Temple and Church of God, their to heare Divine Service and Sermons read and preached as became true Christians to goe and good

subjects to his Ma^{tie}, and so often continued the Remembrance there of unto them, as I did well conceive they would have bethought themselves of the long neglect they had used, and so now have more thoroughly called themselves home to the shewe of this meete duty, but finding in them an apparant neglect not to bee removed by such easie and gentle admonitions, uppō my advertizement therof first into England and soone after unto the Lo: Deputie, I received a *speciall comaundment from His Maj^{tie} under his own Signature*, and direction from the Lo: Dep. wth Instruction to pceed with them in a more strickt manner, and withal His Lordshipp sending unto me an exemplificacon of the Statute made and enacted in this Kingdom in the 2nd year of the late Raygne of Queen Elizabeth, under the broad Seale of this Realme, bearing date at Dublin the last day of Nov^r. last, intituled, *An Act for the Uniformitie of Common Prayer and Service in the Church and the admin^{on} of the Sacraments*: I caused an Assembly of the Councell then p^sent, with the Mayor, Aldermen, and Commons of the Cyttie of Cork, to attend me, and published the same, wherby they took precise notice of the contents of the said Statute and of his Maj^{ty} *Royal Prerogative*, in case they should rest themselves uppon the paynes recyted in the bodye thereof; but this moveing no conformitie, they being resolved wilfully to contemne and disobey it, I proceeded imeadiately according to the Lo. Dep^{ties} Instructions to send forth Mandat in his Majesty's owne name under the Teste of his Highness' Privy Signet of the Province, which onely required that they should according to the said Statute repaire orderly uppon e^vry Sunday and Holydaye to ther Parishe Church or Chappell or some such like place where Devine Service and Sermons were read and preached, and their to continue soberly and decently during that exercise other'ise to incurr the payne and daunger of His Ma^{ties} High indignation and to feele the *infliction of his Highnes Prerogative power*; and besides these Mandats thus se^vally sent and delivered unto them some v^{ue} unto some IIII^{or} and to the least III^{ee} I with such of the Council as assisted me from tyme to tyme have often sent for them before us, and as well labored their Conformities to the pformance of

their duties according to the tenor of the said Mandats, and also laid open unto them the damages the would run into by contempning the same: But notwithstanding all these good indevors used unto them, which at many tymes I ceased not to work, as also by other Privy meanes that the might have avoyded their further troubles and hindrances, yet would they not yeeld any shewe of obedience to the commaund of His Ma^t Mandats setforth unto them by His Ma^t Prerogative: We then considering the waight of the cause in hand, which was not to be neglected by us, howsoever they thro' lack of grace to discerne what was fit to have bin done, or of good understanding to directe their hartes in the obedience and duty required, convented the psons under named before us, to see if they could give any reason for their contemptuous Recusancye, who uppon Conference could alleadge nothinge else but that their Forefathers had continued as they were in the Popish Religion, and their Consciences tyed them to the same, not one of them being able to defyne what Conscience was; yet to wynne them if it might be, or at least to labor the same & to leave no meanes unattempted that might carry any semblance of effect in this godlie service, We offered unto them respite to advise, so as they would confer with such learned preachers of ours as wee should assigne to worke with them, which mocon, or any thing else that might bee said or made unto them, was of no acceptation, they being wholly bent obstinately and undutifully to psiste in their contumacious Recusancie against his Maj^t Royall P^rogative commaunded them in the s^d Mandat, In so much as after many and longe delays in this remise manner used unto them from the 14 of Nov^r last, at which time the p^rclamacon before remembered was published, besides my frequent exhortations and admonicons preceedinge the same, until the 26th day of Feb^r last, We then at the last tyme convented them againe before us to understand their resolute answeres and what they or any of them could alleadge for themselves in defence of such undutiful contempts as they had [] expressed, tending to great disloyaltie if advantage were taken thereof as they had inforced, who being nothing penitent of any contempt, but

resolved to mayntayn the same as a matter of conscience, Wee proceeded to the censuring of them as for contempt against His Ma^s Commaundments exp^{ss}ed in the Mandates, and imposed uppon each of them the *ffynes annexed unto their names with Imprisonment during pleasure*, The one half of which ffynes, by the Judgement of the Court, was assigned for the erecting of an Hospital in or neere the Cittye of Corcke, and such other like pious uses, and the other halfe to the use of His Ma^{tie}, the Estreats whereof followeth here under. Yeoven at Corcke under His Maj^s Privie Signet of Munster, the 15th day of June 1606.

Wm. Sarsffelde, Maior of Cork, fined in 100*l.* sterlynge.

Edm. Galway, Gent. 60*l.*

Edm. Morrough, Merchant 60*l.*

Thomas Coppinger, Gent. 60*l.*

Henry Gold fz Adam, Merchant 50*l.*

John Tyrrie fiz Fra^s, Merchant 50*l.*

Andrew Galway, Gent. (exonerated because "sese conformavit") 50*l.*

Walter Coppinger, Gent. 100*l.*

Jffrey Galway, Soverayne of Kinsale 100*l.*

Phil Roche, of the same, *Burgess* 50*l.*

Jas. Meagh, ditto *Burgess* 50*l.*

Robert Meagh, ditto *Burgess* 50*l.*

Patrick Martell, ditto *Burgess* 40*l.*

[Afterwards, pursuant to Exchequer Writ tested last of January 1606, the following further Certificate as to those proceedings was made to the Court, viz.]

Corke ss. { PROCEEDINGS at the COUNCEL TABLE in the
Province of Mounster, with the undernamed
psons, Cittizens of Corke, by and before the Lord President
and Councell their in manner as followeth, &c.

13^o DIE JULII, 1606.

William Sarsfield, late Mayor of the Cittye of Corcke, being by the Lo. President deposed from his office of Magistracy for denying to take the Oath of Supremacy, and the Towne and Corporation having made a new choice and presented

their new chosen Maior unto his Lordshipp, who tooke the said oath without scruple when by his Lordshipp hee was required so to doo, he the said William Sarsfield, after all this don, made flat denial to deliver up to the said new elected Mayor the capp of Mayntenance, the Sword, and other the Ensignes belonging to the said office, which being complained of unto the said Lo. President by the said Mayor, his Lordshipp first sent unto the said William Sarsfield one Henrie Toakefield, Esquire, requiring him to render up the said Ensignes, to whom the said Sarsfield gave answere he would not, and for reason delivered that he stood doubtfull whether hee were lawfully deposed or not, uppon returne of which answere his Lordshipp, the next morrow after, being the 12th of July 1606, sent the Gent. Porter requiring him the said Sarsfield to come before his Lordshipp to answer his contempts, to whom he gave light answere that he was not well, and that if he were better in the afternoone he would then attend, with which answer his Lordshipp not resting satisfied, understanding that he was not sicke at all, sent a second commandment unto him, under his hand, for to repaire unto him, which commandment the said Sarsfield also contemptuously neglected and disobeyed, uppon which several obstinate contempts his Lordshipp then ymployed the Serjeant-at-Armes to bring him to his Lordshipp, who having uppon his duty of allegiance arrested and attached him in that behalf, he notwithstanding continued his former obstinacies, and refused to come with him. To all which contempts of his, his Lordshipp gave way for that night, and the next morning his Lordshipp sent the Gent. Porter, and warned the Mayor, at one of the clocke in the afternoone, together with all his brethren, to attend uppon his Lordshipp, and withal sent a fresh commandment to the said Sarsfield, together with the rest of the prisoners, to wayte uppon the said Mayor thither, whiche commandment the said Mayor duely observed, bringing with him few or none of his brethren, for that, as it seemed, they denied to attend uppon him; but the said Wm. S. coming some distance of tyme after the said Mayor, he brought with him and attending upon him the best and cheifest of the

Cittie in manifestation of his inward affection and in open opposition to what he was required and commaunded : unto all which several misdemeanors and contempts of his he being then required by his Lordshipp to make direct answer, and first Why uppon his Lordshipp's comaundment he delivered not the Ensigns to the new elected Mayor, he to that point answered that he knew not where the were, and it being presently then prooved before him that the were in his house and at his comaund, he then answered as formerly to Mr. Toakefield, that he stood doubtful of his lawful deposinge, and that upon the Lo. Deputies coming to town, they use and are accustomed to deliver upp unto his Lordshipp both their Ensignes and Keyes, but at no other Governor's comaund whatsoever. And being then by his Lordshipp required to make answer to his other severall contempts in not appearing being so often sent for and comaunded, and in not attending the Mayor as he was required, he thereto was in a manner silent and coulde make no reasonable answer at all in justification or defence of himself : uppon all which matters his Lordshipp and the rest of the Councill then assisting him having duely considered and found all and whatsoever past has proceeded out of a most obstinate and wilful mind of his and altogether in *contempt of the state and authoritie of the Table* there, They have therefore proceeded with him, and for his said wilful *misdemeanor and contempts* have imposed uppon him for A FYNE THE SOME OF FIVE HUNDRED POUNDS STERLING, WITH A FURTHER CENSURE OF IMPRISONMENT DURING HIS MAJESTIES PLEASURE.

19^o die Dec. 1606. { Dominicke Roche of the Citty of Corke,
 { merchant, having received several Mandates in his Majesties owne name, requiring his conformity and psonall repayre evey Sunday and other Holydayes to his Parish Church, to hear Devine Service according to his Majesties lawes and injunctions of this Kingdom, hee most wilfully and disobediently contempned and disobeyed from time to time so to doe, for which his said contempts he being convented before the Councell Table, and there not hable any way to excuse or justifie himself, but yet still persisting

in his obstinate wilfulness, hee was therfore by the Lo. President and such of the Councell as then assisted him, fined in the **SOME OF A HUNDRED POUNDS STER.**, the one halfe to be bestowed to godly uses and the other to his Majesties coffers, with a further *censure of IMPRISONMENT DURING HIS MAJ^{ty} PLEASURE*; and warrant was thereupon, from the said Lo. President and Council, directed to the Clerke of the Fynes, to levie the said fyne of the goods and chattels of the said Dom^t Roche accordingly.

John Brenaugh, Alderman,	} Similar proceedings, fine, and imprisonment, &c.
David Meaghe, Sheriff,	
David Tirrye Fitz Stephens,	

Concluding with an account “ of the goods and chattels ” of each individual sold to pay the fines thus imposed. There is afterwards a recital of similar proceedings against the Corporations of Galway, Drogheda, &c. &c.

FAC-SIMILES.

Pleas of Parliament, Exchequer Roll Dublin, 28 Edw. I.	<i>To face p. 28</i>
Writs for Election, Chancery Roll Dublin, 4 Rich. II. 62
Statute Roll, Chancery Dublin, 10 Hen. VII. 50
Verdicts, Exchequer Roll Dublin, 28 Eliz. 54

Names of Places in Ireland sending Members since 1358. 31
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THE END.

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